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TRIAL

OF

QUEEN CAROLINE

PART III

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THE

TRIAL OF QUEEN CAROLINE.

OCTOBER 12, 1820.

Lieutenant Joseph Robert Hownam was again called in, and further examined by their lordships, as follows:

Do you know where it was that the Princess took her bath on board the polacca; what cabin, or where?—I never saw her Royal Highness take a bath on board, consequently I cannot tell.

You have stated that you were with her Royal Highness at Trieste; can you speak from your own knowledge, whether, after the time you joined her Royal Highness in Italy, she ever was at Trieste, except upon the occasion you have referred to?—Never.

Were you in the Princess's service before Bergami?—I was not.

You never served her before?—I never served before in her service.

Do you know the reason that Bergami was selected to be in her Royal Highness's tent in preference to yourself or Mr. Flinn?—I do not.

Is it customary for a sentinel to sleep on his watch?—It certainly is not customary for a sentinel to sleep on his watch.

On board of what ship have you served?—I served in many ships.

Be good enough to name them, and the captains?—I have served in the Africaine, Captain Manby; in the Lively, Captain Hammond; in the Centaur, Sir Samuel

Hood; in the Barfleur, Captain M'Cloud; in the Lavinia, Lord William Stuart; in the Resistance, Captain Adam, Captain Rosenhagen, and Captain Pellew; in the Undaunted, Captain Usher:—I think those are all the vessels I have served in.

How many years have you served?—Since the early part of 1803.

You are understood to have said, in answer to a question put in the latter part of your examination, that there was no mystery or concealment whatever in Bergami's sleeping underneath the same tent with her Royal Highness on board the polacca; on other occasions, when Bergami may have slept near her Royal Highness during that journey, was there any mystery or concealment of any kind?—None whatever.

What is your opinion of Bergami, as the servant of her Royal Highness?—I must here confess that he was excessively attentive, and most ready in his duty.

Was he, among the servants of her Royal Highness, more likely to be selected, on account of his fidelity and attachment, than any other, to guard her Royal Highness?—I should think, from the way I have seen the Marquis Ghisiliari and other persons conduct themselves towards him, that it would authorize that.

No suspicion was ever entertained in your mind, in consequence of the circumstance you have mentioned?—None.

You have been asked relative to Mrs. Hownam, to which you declined giving any reply; have the goodness to state about the age of Mrs. Hownam?—About thirty.

You are well acquainted with Lieutenant Flinn?—Yes, I am.

You believe him to be a man of honor?

Mr. Attorney-General submitted an objection to the question.

The council were informed, that the only question that could be put upon that subject was, "Is Lieutenant Flinn a man to be believed upon his oath?"

Do you believe Lieutenant Flinn a man to be believed upon his oath?—I believe Lieutenant Flinn to be a perfect man of honor.

What was the distance from the steerage to the tent?—They are upon separate decks, the steerage of the vessel is underneath.

From the helm?—I should think four, or five, or six feet; five feet, probably.

You have said, that sometimes, during the voyage from Jaffra, Lieutenant Flinn slept on deck; do you not think when Lieutenant Flinn slept there, her Royal Highness was sufficiently protected?—His sleeping there was a thing that was not constant.

When he did sleep on deck, was her Royal Highness sufficiently protected?—I should think she was sufficiently protected.

If Lieutenant Flinn had slept upon deck during the whole voyage from Jaffa to Syracuse, would it have been necessary that any one should sleep in the tent with her Royal Highness for her protection?—There may have been many reasons; the ship rolling very heavy—an accident might have happened in the tent, and twenty things—a sea breaking on board.

Is that to be understood to be an answer to the question?—Yes.

You have said that at night you sometimes went up the ladder from the dining cabin to the tent, but that, finding the Princess had retired for the night, you withdrew; how do you reconcile this proceeding with your opinion that there was nothing indecent in Bergami passing the night in the tent with her Royal Highness?—I withdrew from the impossibility of getting on deck, as the tent came close round to the combings of the hatchway, all round on the side on which the ladder was placed.

You stated that there was no light in the dining-room?—I think not.

What was the occasion of your going into the dining-room, and from thence into the tent?—From the habit of going up there all day; I did not know that the tent was closed; it was not absolutely in the night; ten o'clock, I think I said—towards the evening.

At what period of the year was this?—We left Jaffa, I think, on the 17th of July, and we arrived at Syracuse, I think, on the 20th of August.

Do you mean to say, that, at that period of the year, it was not dark at ten o'clock?—It was night-time, it was dark; it was as dark as it is at such an hour in such a climate.

When you went up the ladder, at ten o'clock, did you not know that the tent was closed?—I did not.

Have you any reason to believe, that, after the violent attack made on her Royal Highness's house at Genoa, or from any circumstance preceding your calling out Baron Ompteda, or from any other circumstances at that time, her Royal Highness entertained any particular apprehensions with regard to her personal safety?—She did, because she has mentioned it to me.

Did she, in consequence of such apprehensions, express to you a wish at that time to be more closely attended by the male part of her establishment?—I have heard her frequently mention this affair, saying, she would have somebody always near her; I cannot recollect the precise words it was mentioned in.

Near her in consequence of those apprehensions?—It was from those apprehensions she had previously mentioned.

You have stated, that, on account of the rolling of the ship, as well as for the protection of her Royal Highness, it was necessary to have somebody in the tent with her; would not yourself, or Mr. Flinn, or any seafaring person, have answered that purpose better than a landsman, if it was on account of the rolling of the ship?—I should imagine, if that was the only cause, certainly a seafaring man would be most capable of rendering assistance.

Could not he have answered both purposes; have protected her Royal Highness, and have assisted her in the event of the rolling of the ship?—I trust he could.

Did any facts to your knowledge occur at the Princess's residence, that occasioned the quarrel between you and Baron Ompteda?—By the confession of a servant; I saw the servant on his knees, begging pardon for his crime.

Mr. Attorney-General submitted that the words, "By the confession of a servant," could not stand on the minutes.

The counsel were informed, that each lord in the House would of course be aware, that the witness having stated that he knew it only by the confession of a servant, it must be taken that he did not know it at all.

Before whom was that servant kneeling, and what was the name of that servant?—Before the Princess of of Wales; his name was Maurice Credè.

The witness was directed to withdraw.

'The last two questions and answers were read over.

The witness was again called in.

With whom did this person, Maurice Credè, live; whose servant was he?—He was the servant of her Royal Highness the Princess of Wales.

The witness was directed to withdraw.

The witness was again called in.

Do you know where Maurice Credè now lives?—I do not know but from hearsay.

Do you know where Maurice Credè now lives?—I have heard that he is in England.

With whom?—I do not know with whom; I have not heard with whom.

Did Majocchi ever mention Ompteda's name to you?—I recollect perfectly, at Rome, mentioning to Majocchi the commands of her Royal Highness, that the servants should not, on meeting Baron Ompteda, molest him, or offer him any insult. I never had any conversation with the lower servants of the house on such a subject, consequently he never could have mentioned it to me.

Majocchi never mentioned Ompteda's name to you?—I do not recollect it; I do not know that he did.

When you saw this man upon his knees to her Royal Highness, did you hear her make any reply to his question of asking forgiveness?—She forgave him.

Do you recollect the words?—I cannot recollect the words.

You have stated that you have seen her Royal Highness walking arm in arm with Bergami at the Villa d'Este; was she then with Bergami only?—Walking arm and arm in the garden.

Was there anybody else in company?—I do not remember any one particular time to have seen them alone in the garden walking arm in arm.

Are you positive you have never seen them so walking, whilst Bergami was courier?—I do not recollect having ever seen them so walking, while Bergami was courier.

You are not positive you have not seen them so walking together while Bergami was courier?—I never recollect to have seen them so walking while Bergami was courier.

Did the Baron Ompteda dine at the Princess's table at Milan?—I think he did.

Did he at Como?—He did.

Did he at the Villa Villani?—He did.

Did Majocchi wait at the Princess's table at those places?—He did.

You have said that you considered it necessary, in the situation of the Princess of Wales, on board the polacca, that a male attendant should sleep near her; did you ever express that sentiment to the Princess of Wales herself?—I never did.

In the reasons which you have assigned for not considering it a degradation in the Princess of Wales to sleep under the tent with Bergami, you have said, that there was no mystery in the case, and that the hatchways were open; you have since said, that, in an attempt one night to go up the hatchway, you found the tent closed; do you consider that there was no mystery in that?—The tent being closed, her Royal Highness had retired to rest; I did not consider that there was any mystery whatever in that.

Was Bergami in the tent at that period?—I did not see him; I do not know; I cannot say.

Do you know that he was not in the tent?—I do not know that he was not in the tent.

You have already said that you have heard and believed Bergami slept in that tent; have you any reason to believe that he was not in the tent, at that period when the tent was closed?—I never thought about it; I did not think of it.

You have before said, that you never represented to her Royal Highness the Princess of Wales that it was necessary for a male domestic to sleep near her upon the deck; you consequently could not be the recom-

mender of the measure; when you considered it necessary for a male domestic to sleep near the Princess of Wales in the tent, did you consider that it was necessary for a male domestic to sleep within the tent?—I never represented the one nor the other.

You have said, that you thought it necessary for a male domestic to sleep near her Royal Highness; did you think it necessary that a male domestic should sleep within the tent?—I never thought of the thing at all; and, probably, had there been nobody under the tent I should have taken as little notice of it, as I did when there was somebody under the tent; when I heard it, I supposed it was necessary; I thought it was necessary within myself.

Was it for the Princess's safety you thought it necessary a male domestic should sleep near her?—Her Royal Highness thought so, and I did not think otherwise.

You have already stated, that in your opinion it was necessary, but that opinion you did not communicate to her Royal Highness the Princess of Wales; but in your last answer it appears as if the Princess of Wales did communicate it to you: did the Princess of Wales, in fact, communicate it to you?—She did not; not on that occasion, except after the business of Genoa, after the general remark that she had always made; not with the exception of that.

What was the danger to be apprehended on board the polacca?—I do not know any immediate danger.

The witness was directed to withdraw.

The witness was again called in.

Was there any danger?—I do not know any immediate danger, not personal danger; if I had thought that I should not have been easy myself to have slept below.

Was there any danger sufficient to have induced you at any time to recommend a male attendant sleeping within the tent?—I never did recommend it.

You have said that at Carlsrhue the Princess dined with the Grand Duke, except one day that she dined with the Margravine; did you dine in company with her Royal Highness on those occasions?—I did.

You have said also that she supped at the Grand

Duke's, and also at the Margravine's; did you sup in company with her?—Yes, I did.

At what o'clock at that court is the dinner?—I positively cannot recollect that.

About what hour?—I do not recollect the hour sufficiently to be able to mark it.

Have you any recollection of the lateness of the hour of supper, and the evening parties there?—I cannot say to what hour they lasted; they lasted late in the night, probably twelve o'clock.

Can you of your own knowledge, say whether the Princess had time to return hone between dinner and supper, between the dinner and the subsequently going to the other house?—or supping at the same house?—I should imagine yes.

Did she, to your knowledge, on any one of those days, return home between the dinner and the supper?—I do not recollect that.

Will you undertake to say that she did not?—I will undertake to say that I do not recollect the circumstance; if I had the smallest recollection of it, I have no end in keeping it back, in withholding it.

Your attention is directed to the time when Bergami, Camera, and Theodore, took leave of her Royal Highness on disembarking at Terracina; you mentioned that they, each of them, kissed her hand; do you know that Bergami had not taken leave of her Royal Highness before coming on deck?—I do know that he had; I have not an idea of it.

Did you see those three persons come upon the deck together?—No; I think we were all on deck together.

Bergami, Teodoro, and Camera?—That is the recollection I have of it; every body was upon deck.

Did the Princess then come upon deck when you were all there?—I do not recollect that the Princess was below even.

Did you ever see Bergami take leave of her Royal Highness upon any occasion, in a different manner from those men just mentioned, Camera and Theodore, or any other person of her suite?—I have seen him take leave more than once, and I never saw anything else but the kissing of her hand, as every one else did.

You have frequently mentioned her Royal Highness sleeping in the tent on board; the sleep, when you mentioned her sleeping in that tent, is it to be understood that you meant that she rather reposed upon the sofa, than slept, in the general acceptation of the word sleeping, going to bed, and pulling off her clothes, for the sake of rest; are you to be understood that she reposed with her clothes on, when you make use of the word sleeping?—I do not believe her Royal Highness ever took her clothes off on board the polacca, except to shift herself in the day, to change her dress; that is my firm belief. I mean in the voyage back from Jaffa; on the first voyage she slept in her cabin.

You did not positively state that you knew that Bergami was under the tent?—I never saw him there.

If you state that it was your belief that he was under the tent, do you also believe that Bergami reclined in the same manner on the other bed, with his clothes on?—I do not think Bergami ever took his clothes off either, while sleeping under the tent, for I never saw any bed-clothes on that bed.

Do you know where it was that her Royal Highness changed her clothes on the return from Jaffa; whether it was in the tent, or below?—Below, in her cabin; I never saw her change her clothes upon deck.

You never saw her change her clothes?—No, not any where.

Did you, from the window of the Villa d'Este, ever see a dance that Mahomet performed at that time?—I did, I recollect particularly once; I was in her Royal Highness's room, I forget now what it was for, something I had to do, and we heard a noise in the court-yard; her Royal Highness went to the window, as I did also myself, and Mahomet was exhibiting this dance before—I did not know who they were—but several persons in the court-yard.

Do you know where Majocchi was at that time?—I did not take particular notice of him; there were many servants there; I cannot say positively that he was there.

Was any other person in the room with her Royal Highness besides yourself, at the time you looked out

of the window, and saw the performance of this dance?—I do not think there was; I have not a recollection of anybody being in the room but myself.

Did you conceive there was any great impropriety or indecency in that dance?—Most certainly not; I never did.

How long is it since you saw Captain Briggs?—I have seen Captain Briggs at Portsmouth, about two months ago.

Did any conversation pass between you at that time upon this subject?—The subject of this inquiry? Captain Briggs declined entering into any conversation on the subject.

You never have, to the best of your recollection, had any conversation on the subject with Captain Briggs, since you were on board the Leviathan?—I never have; I have only seen Captain Briggs once since that time, which was in this house; he shook hands with me; that was all.

If you ever have had any conversation with Captain Briggs, you think you would recollect it?—I think I should recollect it.

You say that when you saw Captain Briggs at Portsmouth, he declined having any conversation with you upon the subject of this inquiry; did you propose any such conversation to him?—The object of my going to Portsmouth was that; it was from myself.

What was your reason for wishing to converse with Captain Briggs upon that subject?—I heard that Captain Briggs was coming as a witness against her Majesty, and I felt convinced that it could not be so, and I declared that I thought so, and that I would go and ask Captain Briggs himself.

What did you, in point of fact, ask Captain Briggs?—I asked him if it was a fact that he was coming.

What was Captain Briggs' answer?—He said he thought that he should be called; he was afraid he should; that his testimony should be nothing but what was honorable and just.

Was that the whole of Captain Briggs' answer?—I think it was, I do not recollect any thing more.

In that answer Captain Briggs does not appear to

have declined entering into any conversation on the subject?—Captain Briggs told me he could not enter into any conversation.

Did you ask Captain Briggs to enter into any further conversation?—No, I did not press Captain Briggs on any particulars, only asked him if he was coming, and so forth; I forget the words exactly.

When did you see Captain Briggs in this house?—The day he gave his deposition.

Were you present during the examination of Captain Briggs?—No, I was not.

Had you any conversation with Captain Briggs at that time?—None but a few words; he shook hands with me over the banisters, and said, "I hope we shall shake hands when I come out."

That was the whole of the conversation?—With the exception of "how do you do."

Did you ever see the tent closed on board the polacca, on the voyage from Jaffa to Syracuse during the day?—I have seen her Royal Highness falling asleep in the day-time, and I have closed the tent partially myself, brought it round so as to prevent the sun, or whatever it might be; but to close it close, I never saw it.

Were those the only occasions on which you saw the tent closed during the day-time?—I do not recollect ever to have seen it closed, but on such an occasion; it never was to say closed.

How frequently might that happen in the course of a week?—I do not remember; I cannot say; it may have happened once or twice, or more times; I do not remember the number of times it happened.

Did you remain on deck after the tent was so closed?—I may have remained on deck: yes, I dare say I did; it is more than probable I did.

Can you take upon yourself positively to say that you ever did?—It is five years ago: I cannot remember so as to say that I did; it is a long time ago; I cannot remember such a fact as that.

When the tent was so closed, was any person under the tent, except her Royal Highness?—I have not seen anybody.

Can you positively say, that when the tent was so closed, you saw no one under the tent except her Royal Highness?—I can positively say that I never recollect to have seen anybody under the tent when the tent was so closed.

Did you ever go into the dining-room while the tent was so closed during the day?—I do not recollect.

At what hour were you in the habit of leaving the dining-room in the evening?—Eight or nine o'clock; I should think it might have been half-past nine.

At what hour were you in the habit of returning to the dining-room in the morning?—I should think we breakfasted about ten.

Did you ever, on any occasion, enter the dining-room between the hours of eight or nine in the evening and ten in the morning?—To go up that ladder, I must have frequently gone through the dining-room to go up that ladder on deck.

Could not you have gone on deck without passing up that ladder?—O yes, there was another passage; in fact, I believe there were two other passages.

You have said you were not in the habit of remaining in the dining-room after eight or nine in the evening, and that you were not in the habit of returning to the dining-room till breakfast time in the morning; did you return to the dining-room after you had left it at eight or nine in the evening, and before you returned to it to breakfast?—Only on the occasion of going upon deck after supper; to go on deck I have gone up that ladder.

What was the supper hour?—There was no hour fixed precisely; eight, or half-past eight, or nine o'clock, as nearly as I can recollect from the time that has elapsed since.

Are you to be understood to say, that after supper you did not return to the dining-room till breakfast, except for the purpose of going up that ladder on deck?—I had no other occasion in the dining-room, but the going on deck.

What is the latest hour at which you ever passed through the dining-room?—At night I cannot say exactly to the hour; it might have been, as I have said before, as late as ten, or half-past ten, that I have gone

up the ladder; sometimes the tent was closed later than at other times, I cannot say to half an hour.

Did you ever enter the dining-room after you knew the tent was closed?—No, I should have gone up the ladder.

Endeavor to give a more distinct answer?—I do not recollect to have ever entered the dining-room after the tent was closed, knowing it to be closed.

Between the hour of half-after-ten at night, and the time at which you returned to the dining-room in the morning, you had no means whatever of knowing whether the hatchway was closed or not?—I cannot know that; I was asleep, I was in bed; the thing might have been done when I was asleep, but I do not believe it ever was.

The following extract was read from the evidence given yesterday.

"Are you to be understood to say distinctly that you do not conceive that there is any impropriety in a male person sleeping in the same tent, the lights being out, with a female?—From the manner that the hatchway was open, and all the other doors below, there was no mystery in it whatever."

Have you any personal knowledge that the hatchway and the doors were always open?—I have always seen the door of the dining-room open; and as I stated before, I ran up the ladder at a late hour; the hatchway was open certainly, and I do not know that ever it had been shut.

Have you ever seen the tent so closed during the day, that any part of the crew passing, might not have seen who were within?—No, I never did.

You have said that you went up the ladder at a late hour of the night; what do you mean by the term late; how late was it?—Between the space after supper, and the ordinary time for closing the tent on deck; I have said, I believe, ten o'clock; but I may be out half an hour, or even an hour; I cannot be positive.

Do you mean to say, that from that hour, ten at night, till ten in the morning, the tent remained quite undisturbed?—I have never seen it touched after that time: I have been in my bed, and when I have come up

in the morning (I am rather a late riser), it was always open.

Do you know, of your own knowledge, that the hatches were not within the tent?—To my knowledge they were not within the tent.

Do you mean that you know they were not within the tent, or that you have no knowledge that they were within the tent?—I have no knowledge that they were within the tent.

Did you write your own challenge to Baron Ompteda?—I did.

It was your own composition?—My own composition.

Are you well acquainted with the French language?—I wrote it in English.

Was it sent in English?—It was sent in English.

Did you give any copies of it, or know of any copies being given?—I do not recollect having given any copies of it.

Was there a companion to the hatchway?—There was not.

No protection at all?—No companion, it was quite open.

Were the rest of the suite in the habit of using that ladder in the day-time?—Yes, they were.

Was not the Princess, in fact, extremely fatigued by her voyage from Jaffa to Syracuse, and extremely impatient to get ashore; and did she not complain, her legs being swelled, as a person who had not been a-bed?—I perfectly recollect the fact.

Do you mean that you recollect her Royal Highness's legs being swelled?—I never saw her Royal Highness's legs.

Do you then mean that her Royal Highness told you her legs were swelled?—She did, in talking of the excessive fatigue of being on deck; I forget how many days now, but it must have been near forty days, or more; she said that her legs were excessively swelled.

Have you read the evidence, as printed in the newspapers, in this cause?—I have not even read my own evidence of yesterday.

Have you read the evidence of Majocchi?—I have.

Have you read the evidence of Demont?—I have.

Have you read the evidence of Sacchi?—Partially, not all.

Were particular passages pointed out to you to read in the evidence of Sacchi?—No, not that I recollect.

How did you select the passages you read in the evidence of Sacchi?—I have selected no passages; I have read them as any one would read them; I do not remember a single passage in Sacchi's evidence; I could not repeat one.

The witness was directed to withdraw.

The witness was again called in.

Are you a Knight of the Order of St. Caroline?—I am.

Have you a diploma as such?—I have.

Can you produce that diploma?—I can.

You have said that you arrived at Trieste at noon, and that you quitted next evening, I think, between six and seven o'clock?—I think I said between five and six.

Does your recollection lead you to that fact, or does your knowledge of that fact depend totally upon the letter you had written to your wife, which you have in your hand?—I had already fixed upon twenty-four hours, being about the time we were at Trieste, and I only found the letter after I had so fixed my opinion.

Do you recollect any thing passing at Trieste about her Royal Highness endeavoring to obtain a sum of money?—At Trieste, I do not even know that she sent for her banker; she may have sent for her banker, but I do not know any thing of it; I do not recollect any thing of the sort.

You have said you first saw Bergami at dinner with her Royal Highness in a courier's dress, at Bellinzona; did Bergami on that occasion come into the room with her Royal Highness?—No, I think he was in the room, and her Royal Highness desired him to sit down.

Did he sit on that occasion next her Royal Highness?—I cannot recollect that: I do not recollect that.

Do not you recollect were Bergami sat, in a courier's dress, the first time you had ever seen him at her Royal Highness's table?—I do not recollect it, or I would say so.

Do you remember whether her Royal Highness

spoke to him in the course of the dinner?—She may have spoken to him, but I do not recollect the fact: I do not recollect her saying any thing particular to him.

Do you remember speaking to him yourself?—No, I do not.

Did not Bergami wait at table when you dined with her Royal Highness?—At Genoa; after Genoa I do not recollect that he ever did.

Have not Louis Bergami, and the cousins of Bergami, waited at table when you dined with her Royal Highness?—Yes, they have.

Have you not seen, at her Royal Highness's table, the brother, the sister, the mother, and cousins of Bergami?—I do not recollect the cousins: I have seen the former ones, but not the cousins, at table, I think.

Did you never see the cousin that was an accountant at table?—No, I have never seen him at table.

Did you ever see Bergami's wife at table with her Royal Highness?—I never saw her at all.

Were you ever at the Villa d'Este or the Villa Bergami when her Royal Highness was not there?—I think I went once to the Barona with Bergami.

Recollecting that you have dined at her Royal Highness's table with Bergami, whom you have seen serve at her Royal Highness's table: with Louis Bergami, who has served you at her Royal Highness's table: with Bergami's sister, and with his mother: and when you recollect the circumstance further, that you have sworn to your belief that Bergami was under the tent with her Royal Highness at night, between Jaffa and Capo d'Anza: do you persevere in swearing, upon your oath, that you have seen her Royal Highness do nothing improper or unbecoming of her station?—I speak for myself: I had no greater claim to sitting at her Royal Highness's table than either of those people: I have seen people sitting at her Royal Highness's table while their fathers have been waiting at table: and I never saw any thing in the conduct of her Royal Highness, knowing the way she treats every body, to authorize such an opinion.

Did you ever wait at her Royal Highness's table?—Never.

Have any of your relations sat at her Majesty's table: —I do not believe they ever did.

Did you ever see Mr. Vallotti Bergami sitting at her Royal Highness's table?—I do not know him by that name: I recollect an uncle.

What was that uncle?—I do not know what he was.

But you recollect seeing Bergami's uncle sit at table with her Royal Highness?—I have heard it was his uncle.

The following extract was read from the evidence of yesterday.

"What was the nature of the entertainments given by her Royal Highness at the Barona?—There were no entertainments except to the farmers' daughters, to amuse, in fact, the household.

"Was the time of which you are speaking the Carnival time?—It was.

"Did you ever see at those entertainments the wives of persons as well as their daughters?—The eldest of the daughters was married: I do not recollect if any more were married, but I recollect one was married.

"The question does not refer to any particular family; but did the persons who attended at those entertainments bring their wives as well as their daughters?—I have seen the wife of the Chevalier Tamasia and his daughters, the wife of Professor Mocatti, and the wife of Baron Cavaletti.

"Who was the Chevalier Tamasia?—He had been Prefect of Como for some years.

"Were the other persons whom you have named, persons who resided in the neighborhood?—Yes, they were, with the exception of the Professor Mocatti, who was of Como.

"Do you recollect whether the clergyman of the place was there or not?—I have seen him frequently; at the dance, I cannot say.

"Do you mean that you have seen him frequently visiting her Royal Highness?—Frequently."

Who is Doctor Mocatti?—He is professor of physic at Como, and I believe President of the College.

What college?—There is a college, the College of Como, I think.

Is physic taught at Como?—I think he is the professor of physic; he is called the Professor Mocatti.

Is he not the practising doctor in that place?—He is.

Who is Mr. Cavaletti?—Cavaletti was equerry to the Viceroy of Italy, Prince Eugene, and I believe he was lately in the service of Napoleon Bonaparte, and was at the battle of Waterloo, in his suite.

Was he often at her Royal Highness's house?—Very often.

Besides Mocatti and Cavaletti, and the Chevalier Tamasia, who else can you name that visited at that time?—At the dances I do not recollect any other name.

Do you conceive a courier and a lieutenant in his Majesty's navy, equally entitled to sit down at her Royal Highness's table?—Anybody that should sit down at her Royal Highness's table, by her command, would authorize, I believe, a person of higher rank than a lieutenant of the navy to sit down with him.

Early in your examination yesterday, you entered into the minute circumstances of your father; was your father ever in the service of any other persons than the royal family?—I can only speak from report; I believe he has been in the service of Lady Charlotte Finch, in his late Majesty's household.

You having stated that her Royal Highness embarked in Sicily to go up to the Levant, and to return in her Royal Highness's suite, except yourself and Lieutenant Flinn, was there anybody in her suite used to the sea?—None that I know of, except one English sailor.

Have you a personal knowledge of the hatchway being open in the interval, from the time at which you left the dining-room, till the time at which you returned to it?—I have a thorough conviction that it never was shut.

Have you any personal knowledge of the fact?—From seeing it open when I ran up.

Could not the hatchway be closed without removing the ladder?—To have closed the hatchway, the tent must have been opened, as the tent covered the hatchway.

Where was the cover of the hatchway itself?—The

hatchway itself was on the deck of the vessel ; I do not know in what part of the deck the hatches were kept, whether they were on deck or down below.

Did you ever see the hatches under the tent ?—No, I never did.

Who slept in the dining-room in the voyage from Jaffa to Syracuse ?—I do not know ; I have never seen anybody sleeping there ; I have seen a bed there in the day-time, rolled up, but I never saw anybody sleeping there ; I do not know who slept there.

Where did Majocchi sleep ?—He ought to have slept down in the hold where the footmen slept ; I never saw him sleeping down in the hold, because I never was down in the hold to see them.

Did Maurice Credè continue in the service of her Royal Highness after you saw him upon his knees ?—He continued in the service of her Royal Highness as far as Nuremburg, on the journey to Vienna.

How long was that ?—It was in the beginning of the month of November that this circumstance happened, and I think it was in the latter end of March, or the beginning of April, in the following year, that we were at Nuremburg.

Where did he leave her Royal Highness's service ?—Her Royal Highness, I believe, gave him as a courier to her aunt, the Margravine of Bayreuth.

Was the tent closed during the day-time by the order of Count Schiavini ?—It may have been ; I do not know.

Was it ever completely closed, as at night ?—I never saw it so.

Can you take it upon yourself to say, that any one who swore that it was so closed would have sworn a falsehood ?—I cannot say that ; not having seen it myself, I cannot answer for what another person has seen.

Did you know from the beginning, the time that her Royal Highness slept in the tent on deck ?—It was from Jaffa.

Do I understand you rightly, that from the first night that her Royal Highness slept in the tent, you were fully aware of that circumstance ?—I was aware of it as much as I could be aware of it, without seeing her Royal Highness actually on her sofa.

You being aware that no one of her Royal Highness's suite was used to the sea, except yourself and Lieutenant Flinn, did you offer to afford your assistance in sleeping under that tent with her Royal Highness?—I did not.

You have stated in your evidence, that an English seaman was discharged; where was he discharged?—At Athens.

How long had he been on board the polacca?—Does the question mean actually on board the polacca, or belonging to the suite of her Royal Highness?

Belonging to the suite of her Royal Highness?—I should think about two months.

Do you know the reason of the man's being discharged?—It was in consequence of a quarrel, and, I believe, a fight with the cook.

There was no other reason than that for his discharge?—I never heard of any.

When you state that you have seen the tent during the day partially closed, do you remember on any one occasion, while that tent was so closed, having seen Bergami?—I never recollect the tent so closed; but when it was closed, in consequence of her Royal Highness having fallen asleep, as I said before, I have closed it, partially; but with the exception of that, I do not recollect any other circumstance that should cause it to be closed.

Do you remember at any one time, when it was so closed, having seen Bergami?—I do not.

You were understood to have stated, that when you went up, on the sea breaking into the polacca, you are quite sure there was no light in the tent?—I do not recollect having mentioned anything about a light, on the occasion of the sea breaking into the tent.

Do you recollect whether the tent was usually open in one part of it more than another?—No, I do not.

Do you remember at any time having seen Bergami in a blue mantle?—I do not recollect ever having seen him in a blue mantle.

When you witnessed that dance of Mahomet, in the court of the Villa d'Este, and when you saw her Royal Highness looking out of the window, can you assert that it was a dance of that kind that a woman of virtue,

or of common delicacy of mind, could behold without disgust?—It was not more indecent, in my opinion, than the Spanish bolero.

Were you not commissioned by her Royal Highness to convey some message to Captain Pechell, on board the Clorinde?—I was.

Do you remember what the instructions were which her Royal Highness gave you upon that occasion?—I do not recollect them word for word, but the purport of it was, that she would keep her own table in fact.

Do you recollect whether those instructions were, coupled with any observation upon the part of her Royal Highness upon Captain Pechell's conduct towards her?—I do not.

You have said in a former part of your evidence, that her Royal Highness treated all her servants with a great degree of kindness and affability?—Yes.

Do you recollect upon any occasion when her Royal Highness had given any directions respecting her route in travelling, or the inns to which she was going, suggesting to her any alterations in that route, which you thought it desirable for her to make?—I do not recollect ever such an instance.

Who generally arranged the route that her Royal Highness was to take?—I do not know; I imagine it was her Royal Highness herself.

Do you know that the Duke and Duchess of Torlonia have dined at any time with her Royal Highness?—I think they have.

Do you know whether the nephew of the Duchess of Torlonia, Carlo Forti, waited at that time at table?—It is the first time I have ever heard that Carlo Forti was nephew to the Duchess of Torlonia.

Do you know whether Carlo waited at the time at the table?—Carlo Forti never waited at the table.

What was the nature of the dress worn by Bergami as a courier?—I think it was a bottlegreen and gold, turned up with scarlet.

Was it what you would call a handsome dress?—A very handsome dress.

Did it resemble a hussar's dress?—No, not a hussar's

dress; it was richly embroidered with brandenburghs, I think they are called.

Did the swell of the sea occasionally make female attendance absolutely impossible?—When there was any sea, that the vessel was in motion, the female attendants were as helpless, if I may use the term, as her Royal Highness herself.

Is it to be understood that male attendants were absolutely and indispensably necessary, both by day and by night?—I should think, that for anything her Royal Highness would want, there should be a male attendant that could procure it for her.

Was there any steward, whose duty it was to attend to the cabin, and also to the deck?—None in particular.

After the sea struck the tent, were the hatches closed?—I think they were.

Where were the hatches found for that purpose?—I do not recollect that; I do not know where they were.

Can you mention where you ever saw the hatches lying?—I cannot call that to remembrance; I do not recollect seeing them in any particular place.

Did you ever see them at all?—I have seen the hatches, the sky-lights; I have seen them on the deck; but at what spot I cannot tell.

Whereabout?—On the deck.

Were they a grating, or closed?—They were sky-lights.

You have stated, that the first time you saw Bergami dine with the Princess of Wales in his courier's dress, you do not recollect where he sat; will you swear he did not sit next to her Royal Highness?—I do not recollect the circumstance; I have said so before.

If Bergami had sat next to her Royal Highness, do you think you should not have recollected the circumstance?—I do not recollect it, or I should say so at once.

The following questions were put at the request of Mr. Attorney-General:

Had you not a Genoese servant of the name of Francisco, attending you at Ruffinelli?—I had a Genoese servant, of the name of Francisco, but he was not my servant when we were at Ruffinelli.

Was he then a servant of her Royal Highness, and wearing her Royal Highness's livery?—He was.

Do you know where that servant now is?—No, I do not; I have seen him in London, but I do not know where he is now.

Granville Sharp, Esq. was then called in, and having been sworn, was examined as follows, by *Mr. Denmead.*

Describe to the House what situation you hold in life?—I have been in the East India Company's service nine years, in the army.

Have you resided in the East Indies?—Yes.

How long have you lived there?—Above nine years; almost ten.

When did you return from India?—About three years ago.

When you resided there, did you ever see the Moorish dance, called "dema dema?"—I have seen the Moorish dance, but did not know it to be called by that name.

Was it accompanied by any expressions?—Yes.

Do you remember what those expressions were; the sounds?—Different unmeaning sounds, some of which I cannot remember; I do not know that I can remember any.

Is there anything indecent in this Moorish dance; anything unfit for women to witness?—Certainly not.

Whereabouts are the hands held during the dance?—The hands are thrown about in various positions, generally above the head.

Are the knees bent; is there any curtseying?—Yes, it is accompanied by curtseying throughout.

Do the unmeaning sounds you describe, form a tune that the dancer dances to?—Yes, they sing it to a tune.

Where have you seen this; at Calcutta?—I have seen it at Calcutta.

In what places?—In the Government House.

Who was governor at the time?—The Marquis of Hastings.

Was his Excellency present while this dance was exhibited?—He was.

Was the Marchioness there?—She was

And other ladies?—Yes, other ladies.

Do you remember whether the Bishop of Calcutta was present?—Yes, the Bishop of Calcutta was present.

Was his lady there?—Yes, she was.

It is not asked whether there was any thing indecent in the dance?—Certainly nothing.

That was the ordinary Moorish dance?—That was the ordinary Moorish dance.

Cross-examined by *Mr. Parke.*

There are many other kinds of dances danced in the East Indies, are there not?—They are all in the same character; sometimes the dances are quicker, sometimes slower.

How many persons danced at the dance you describe?—One person at that particular dance I mean.

Are there any dances at which ladies are not present?—I never heard of any; I believe not.

The witness was directed to withdraw.

Santino Gugiari was then called in, and having been sworn, was examined by Dr. Lushington.

Were you ever in the service of her Royal Highness the Princess of Wales?—I have been.

In what capacity?—Factor.

What were the duties you performed in that situation?—To keep a watch upon the working people; to mark down their accounts, and to pay them on the Saturday; to take care and distribute the wine to the family, and all other services which the masters commanded me in regard to the house.

Where was it you performed those duties?—In the Villa d'Este, in the gardens of the Villa d'Este, in the vineyards, etc.

How long did you continue to perform those services?—I was born in that place, and when I was eighteen years old I undertook the office of factor.

How long were you in the service of the Princess?—From the moment she bought the Villa, till she left the place.

Do you know Luigi Galdini?—I do.

What is he?—He is a mason by trade.

Did you ever employ him?—I have.

At what wages per day?—Two livres of Milan per day.

Do you know a person of the name of Brusa?—I do not.

Do you know a person of the name of Raggazoni?—I have heard that he was a mason who worked at the Villa; perhaps I may know him by sight.

Do you know Paolo Raggazoni?—I do not.

Do you remember the grotto at the Villa d'Este?—I do.

Do you remember there being at the Villa d'Este two statues of Adam and Eve?—I do.

Did they ever stand in that grotto?—They were in the grotto.

In what room in that grotto did they stand?—In the first rotunda or octagon.

Was there another rotunda or octagon?—In that grotto?

Yes?—There were two octagonals.

Was any cornice made to the rotunda or octangular room in which those statues stood?—There was not.

Was there any scaffolding erected, or any work done to the cornice in that octangular room where the figures of Adam and Eve stood?—There was not.

Was there any cornice made in any other octangular rooms?—There was.

In both, or in one only?—In one alone.

Describe the passage or mode of communication from the room where the statues of Adam and Eve stood, to the octangular room where the cornice was made.

(*The witness made a drawing.*)

(*Interpreter.*) This is a drawing the witness has made of the grotto; the octagon where the statues of Adam and Eve were; and of the octagon where the cornice was made, with the corresponding passages and staircases, &c.

The same was delivered in.

Could workmen at work at the cornice in the octan-

gular room, by possibility see the statues of Adam and Eve in the room in which you have stated them to have been in the grotto ?—They could not.

Why ?—Because the passage, the communication, is crooked, and prevents the sight.

Did the statues of Adam and Eve ever stand in any other room in that grotto, except the one you have already stated ?—They did not.

Was a cornice made to any other room in the grotto save the octangular room you have stated, since the Princess came to the Villa d'Este ?—It has been made in the highest rotunda that I have marked upon the paper.

Has a cornice been made in any other room in that grotto ?—A cornice was made in the two rooms; the rotunda and the square room, which I have marked in my drawing.

Could you see the statues of Adam and Eve from either of those rooms in which a cornice was made ?—I want a better explanation.

Could you see the statues of Adam and Eve from either of those rooms in which a cornice was made ?—No.

When were the statues of Adam and Eve removed from that grotto ?—Before the return of her Royal Highness.

Return from whence ?—The return from her journey in Turkey.

To what room were those statues removed ?—Into one of the Mosaic rooms, which was newly built in the palace.

Had those rooms been finished completely, before her Royal Highness returned from the long voyage ?—They had.

Were the workmen removed from those rooms, before the Princess returned from her long voyage ?—Those rooms had been left by all the workmen.

Had the scaffolding been taken away, before the Princess returned from her long voyage ?—From the Mosaic-rooms ? yes.

How long before the Princess's return ?—About eight or ten days before her arrival.

Were those rooms then fit for the reception of her Royal Highness?—They were.

Was the Mosaic-room a round room, or not?—Where the statues were? the room was square.

What was the next room to that where the statues were?—The first room of the Mosaic-rooms, there were the statues; the second was a small oblong cabinet.

Of what shape was the room next beyond the small oblong cabinet?—An octagon, or round room, with columns.

Could any person at work in that octagonal room see the statues of Adam and Eve?—He could not, because they were by the side of the opening.

Cross-examined by *Mr. Parke.*

How long were you in the service of her Royal Highness?—From the day on which she bought the Villa, till the day that she left the country.

Were the statues in this octagon you have described when you first went there?—I was born at the Villa d'Este.

Were the statues in the octagon you have described, when you first entered into the service of the Princess of Wales?—They were in the grotto.

Were they in the same part of the grotto you have just described?—They were.

Was that the largest room in the grotto that they were in?—In the first octagon that I have mentioned.

Were they in the largest room in that grotto?—I will not say the largest, because the square rooms are somewhat greater than the others.

Then the square rooms you describe are only a little larger than the octagon?—They were.

And only a little larger?—The exact dimensions properly I do not know, but they were larger than the rotunda.

How many rooms were there in this grotto?—Six, comprising the round rooms, and the square rooms.

Were they all on the same story?—They were not.

Was there one above the other?—A person mounts

the steps, then comes a level, then comes more steps, and then another level.

There was a few steps from one place to another, were there?—In some places the steps were few, in some others there were many.

How high was the floor from one part of the grotto above the other?—In the height of the first room there were ten or eleven steps, which constituted the height of the room from the rotunda, where the statues were, to the room above.

Do you mean that in going out of the rotunda to the next room, you would pass up eleven steps?—About.

To what purposes were the different rooms of this grotto applied?—To no purpose, except that of seeing a subterraneous place.

Was the room you have described the only room that had statues in it?—The second room had a small statue, representing Artemisia, weeping on a tomb.

Was that the only room, besides the octagonal room you have mentioned, that had statues in it?—It was the only one.

Were the rooms open to each other?—After the steps.

After the steps, they were open to each other?—The two rooms communicated together; the first room was the rotunda, in which there were the statues; on mounting the steps came the second room, where Artemisia was; after the second room, on the same level, there was another room, a gothic room; there is a passage, and then one step on the right, after two or three steps there is a rotunda; after this rotunda, on the same level, there is a second rotunda, larger, where a cornice was made; after that rotunda comes a half-square room.

Then the two rotundas you have mentioned were on the right, after passing through the two first rooms?—You turned on the left, and then you turned on the right.

Then you passed through one rotunda to go into the other?—Yes; but a person may pass also by the left; there are two openings.

Were all these passages open?—They were open.

Were there no doors at all ?—No.

No doors in any part of those grottos ?—There were at the beginning and the end two iron gratings, a species of gates.

Could a person see through those gratings or gates ? —Yes, because they are open ; the divisions are much apart.

Was there a pillar between them, for them to rest upon ?—They shut up the entrance and the exit.

Did they open close upon the wall or pillar ?—They were attached to the wall.

They were fixed on each side into the wall ; but what was there in the middle to support them ?—The gates were of one piece, and they shut against the opposite wall.

Were there any pillars in this grotto, in any of the rooms ?—There were.

In which of the rooms were these pillars ?—In the second room after the rotunda ; small columns.

Look again at the plan you have drawn. Looking at that again, will you swear that is an accurate plan of the place ?—I cannot call it exact, because there are not measures or proportion.

How long is it since you came to England ?—About ten or eleven days.

Did you come direct from the Villa d'Este ?—I did.

Did you see a man employed in the Villa d'Este to take plans of different places ?—I have seen several persons belonging to government taking drawings, plans ; but this I do not know.

Did you not see an architect of the name of Ratti employed in taking plans at the Villa d'Este ?—Yes, I have.

When was it that you saw him ?—I cannot mention the exact time.

You are not asked the precise time ; did you not see him within a month or six weeks ?—It is more ; it is about three or four months.

It is three or four months from this time that you saw him ?—Yes.

Does Ratti live at Milan, or at Como ?—He lives at Milan.

Did you come with any witnesses here ?—I did.

How many ?—Fourteen.

Did you collect and conduct those witnesses here ?—No.

Who was it that did ?—The will of those witnesses who came with me.

Did they all pay their own expenses ?—They came by their own will ; but the expenses were not paid by them, but were defrayed by the order of Chevalier Vassali.

Did Vassali come with you ?—He did not.

Who paid the expenses on the road for those people ?—I paid for their victuals.

Of all the fourteen that you brought ?—Yes.

Did you apply to any persons to be witnesses for the Queen before you came ?—To no one.

Did not you apply to one single person to be a witness ?—To no person.

When did you set out to come with those witnesses ?—A month last Sunday ; I set off on the tenth of September.

Were you examined before you came ?—I was.

Where were you examined ?—At Milan.

By whom ?—The Advocate Codazzi, and an Englishman called Henry.

Did you give the same account to them that you have done to-day ?—All that was true I have said.

You are understood to say, all you have said to-day ?—No.

Did not you say, you had told all that was true ?—Yes.

And you told all that was true to the Advocate at Milan ?—Yes.

Then did not you tell him all you have said to-day ?—I was not questioned as I am questioned here.

Who has examined you since you came here ?—A gentleman, an advocate here ; I do not know his name.

What was it you were not interrogated about by the advocate at Milan ?—There are many things that I have been questioned here, and that the advocate at Milan has not questioned me upon.

Did you endeavor to get information from the witnesses that had been examined at Milan before that ?—No.

What sum of money do you receive for coming here? —Fifty Napoleans of twenty francs each, for all the company, for all the fifteen.

Have you received anything for yourself?—I have not.

Are you to receive anything?—I ask for nothing, but if her Royal Highness will make me a present I will receive it; but I ask for nothing, for I have come here to tell the truth only.

Have you received no promise of any sum of money? —No.

Have you received no promise of any money, though not of a particular sum?—No.

Neither from Vassali, nor Bergami, nor any other person?—No.

Will you swear that you expect nothing?—What have I said before?—if they make me a present I will take it; if they do not, I will ask for nothing; I do not claim any thing.

Upon your oath, do you not expect money from some person, in consequence of coming here?—Yes.

Is it to be understood that you will swear you do expect money, or that you will swear you expect none?—I do not understand the question.

Is it to be understood that you will swear you do expect money, or that you will swear you expect none? —I repeat again that I have come to tell the truth, without hope of receiving money.

Give a distinct answer to that question: will you swear that you expect no money?—I swear that I do not claim money; but if they should give it to me, I do not refuse it.

Will you say yes or no; will you swear you do not expect money?—No.

How did you travel here; in what way did you travel? —In a carriage.

By post?—By post.

Did you pay your own expenses?—For the expenses of food, but not for the post.

Did you pay for the expense of food out of your own money?—No.

Who gave you the money?—The Chevalier Vassali.

Who paid the posting ?—The courier.

What was the name of the courier ?—He is called Francis.

What other name ?—I do not know his family name.

Guiseppe Giarolini was next called in, and having been sworn, was examined by Mr. Williams, through the interpretation of the Marchese di Spineto.

From what place do you come ?—I came from Milan.

What business do you follow ?—A master mason.

Have you ever been employed by the Princess of Wales on the Villa d'Este ?—I have.

Do you know a person of the name of Raggazoni ?—I do.

Was he a master workman or a common workman ?—A daily workman.

Had he any men under his employ at the Villa d'Este ?—No, I have given a piece of work to seven or eight companions, and they came altogether to be paid for their work.

Do you know the grotto at the Villa d'Este ?—I do.

Do you remember at any time any work being done upon that grotto ?—I do.

Was that the work to which you allude, when you say you let out some work to Raggazoni and some others ?—They worked by the day, and not by piece ; it was another time that I gave them this work.

Do you remember any cornice work being done in any part of the grotto ?—I do.

Do you remember there being any statues of Adam and Eve in any part of the grotto ?—I do recollect.

Was there any cornice work done in the room where the statues of Adam and Eve were ?—No, nothing at all.

Was there any cornice work done in any other part of the grotto, according to your memory ?—At the top, where there was an octangular room, there was another room, which I had built myself, and they worked in no other room but that.

Were they at work upon the cornice in that room ?—Upon the cornice.

That is the work of which you spoke ?—It is.

Had they scaffolding up for the purpose ?—They had, to reach the ceiling.

Has there been any scaffolding put up in any other room or part of the grotto but that ?—In no other but those two rooms, the octangular room and the square room.

Did the square room join to the octangular room ?—Yes.

Was the square room or the octangular room nearer to the statues ?—The octangular room.

From the place where the scaffold was set up in order to work at the cornice, could any person see the statues of Adam and Eve ?—In no way could those statues be seen, because the passage is all winding.

Do you mean the passage from the square and octangular rooms towards the room in which the statues stood ?—First coming from the octangular room, there comes another room, and then another passage, and then another room, where the statues were.

Was the passage you have just described, the winding passage to which you alluded before ?—Yes, winding ; and there are steps.

Do you know a person of the name of Restelli ?—I do.

What is his other name ?—Guiseppe ; I know no other.

Do you know whether the man is in England ; have you seen him in England ?—No.

Do you remember to have seen that Restelli before you left Milan ?—Before he was away from Milan, when I came.

Do you remember to have seen him at Milan before you came over to England ?—Long before ; much time before ; we have been together, and I have seen him.

At that time do you remember any thing being said by Restelli upon the subject of your having worked for the Princess ?

The Solicitor General begged to know to what part of the evidence of Restelli the question last put was directed.

Mr. Williams—In pages 226, 234, and 411, of the printed minutes. (Ch. p. 286, 294, 440.)

The Solicitor-General objected to any inquiries as to

conversation between the witness and a third person. He should be glad to hear any reason why the question was put.

Mr. Williams.—I do not want the conversation between the parties, but I wish to establish the fact of Restelli having applied to the witness to give evidence in this country against the Queen, and tendering him money, or what was equivalent to money, to induce him to do so.

The Solicitor-General.—I object to that, unless my learned friend can show in Restelli's evidence any such circumstance mentioned, and that the other side relied upon it.

Mr. Williams said, that he apprehended their lordships, for the purposes of justice, would consider it extremely material to ascertain what inducements had been held out to witnesses—what hopes or expectations of profit had been raised in them, in order to make it desirable for them to give evidence in support of the bill. Independent, however, of this general ground, there was a particular reason, in this instance, for allowing the question to be put; for it appeared in several parts of the printed minutes, and from the admission of Restelli himself, that he had been employed by the Milan commission to collect evidence, and that he had actually sent one of the witnesses. These facts appeared on pages 234 and 411 of the printed evidence. *(Ch. p.* 294 and 440.*)* The analogies of the courts below, regarding the responsibility of agents, would not apply in this case; for it was impossible to show that Restelli was agent to the promoter of this measure, whoever it might be. Nobody knew who was the supporter of the bill; it was a mystery not yet solved. There was, however, fixed upon Restelli a degree of activity, or to speak in the language of the law, of agency, which showed that it was very material to inquire into the steps he had taken.

The Lord-Chancellor interrupted the Solicitor-General, who was about to reply, by observing that it was four o'clock, and that the discussion could not, probably, be concluded to-day. Before the counsel withdrew, however, he wished to refer them to page 412 of the printed

minutes, *(Ch. p.* 441,) where it actually appeared that Restelli had sworn that he had not offered money to anybody to become a witness. If so, the other side had a right to contradict him.

Mr. Brougham observed, that Mr. Williams rested his question upon two grounds—first, the agency of Restelli; and, next, the propriety of contradicting him.

The Lord-Chancellor added that the passage he had pointed out seemed to him very material.

Mr. Brougham thought that it in fact dispensed with the necessity of further argument on the point.

The Solicitor-General said that he was not aware that Restelli had so sworn; but if the other side could call any body to show that he had offered money to witnesses, they had, of course, a right to do so.

The Lord Chancellor then adjourned the House.

OCTOBER 13.

Giuseppe Giarolini was further examined by *Mr. Williams*, through the interpretation of the *Marchese di Spineto.*

You said yesterday you were employed as a builder at the Villa d'Este?—Yes, head master.

Were you paid as you went along, or was there a bill run up?—Before her Royal Highness set out for the long journey, I was paid regularly every week; after her departure, we entered into contract of 75,000 livres; I continued to work under the direction of Ratti, who was the architect, who made me build several other things, more work; this made the sum amount to 145,500 livres.

Did you see Restelli when that sum of money was owing to you?—Yes.

Do you remember any mention being made by Restelli to you of that bill, or payment of it?—He asked me what was my credit against her Royal Highness, and I answered that, deducting that which I had received, it amounted to 455,000 livres.

Was there anything said about the manner of getting that bill paid?—There was.

State what it was?

The Solicitor-General submitted to their lordships that this conversation between Restelli and the witness could not be evidence.

The Lord-Chancellor thought the witness might be asked whether Restelli made him any offers for coming here; for it appeared from the printed minutes that Restelli had sworn that he had made offers to nobody.

The Solicitor-General observed, that Restelli had not been asked any question with reference to the present witness. He must have been interrogated as to his conversation with the individual witness, to lay a ground for such an examination as that now proposed.

The Lord-Chancellor referred again to the minutes, but said that the Solicitor-General had certainly stated the rule of law.

The Solicitor-General was convinced that their lordships could not fail to perceive the awkward situation in which a witness might be placed if another witness was to be examined respecting a conversation said to have taken place between them, though the first witness had never been asked any question about that particular conversation. If the first witness had been asked any question respecting that particular conversation, he might have stated circumstances which would have explained it satisfactorily. The course of examination now proposed was most dangerous, especially in the manner the present proceedings were conducted. All the evidence was printed, and sent over to Italy. Thus persons in that country had the opportunity of looking over the printed testimony, and then coming here and giving evidence upon it.

Mr. Williams.—This is a mode of giving evidence to a fact. The witness has not been asked respecting a loose conversation, but a fact which it was not likely that Restelli could forget. There was nothing awkward in the circumstance except the offer which had been made of money to the witness to induce him to give evidence against the Queen.

The Lord Chancellor said, that instead of calling on the witness to state the whole conversation he had had, he might be asked whether Restelli gave him money.

Mr. Williams proposed to ask—Did Restelli suggest any mode by which you were to be paid?

The Lord-Chancellor said the object of the examination, he apprehended, was to ascertain whether the witness had been offered money, or whether he knows that Restelli had offered money to any other person to come here. Ask him whether money was offered to him.

Mr. Williams.—Or money's worth.

The Lord-Chancellor.—Yes, that is the same th.ng.

The Lord-Chancellor suggested that the question might be put in these terms—Do you know whether Restelli offered you or any person money, or any advantage, for coming here? When that question was answered, it would be matter of consideration whether further questions relative to the conversation should be asked.

The Earl of Lauderdale agreed in this, but contended the question which the learned counsel had been about to put, was not in conformity with this decision.

The Lord-Chancellor thought it might be well to ask the witness, in the first instance, whether Restelli had offered any money. This could be followed up by any other question that it might be considered necessary to put, and on the propriety of answering which the House could then decide.

Mr. Williams. — Do you recollect at any time Restelli's offering to you any money or any advantage?

The Lord-Chancellor said, that the question first put should be whether Restelli offered him any money, leaving for further consideration any other question.

Did Restelli offer you any money?—He told me if my account was not liquidated to send it to him, and he would contrive to see me be paid.

What did Restelli say you were to do for that?—He told me to give my account to him, for there were Englishmen at Milan, and he would see me paid.

Did Restelli say to you at that time, what you were to do in order to get that bill paid?—He told me that if I had any thing to say against her Royal Highness (for I had been a long time in her service) to tell it to him, and he would endeavor to make me be paid.

At that same time which is now spoken of, or at any other, had you any further conversation with Restelli, about what Restelli was doing as to witnesses?

The Solicitor-General objected to this question. It could not be made evidence.

Mr. Williams said, that he could show the evidence to be admissible on general grounds; but he would first call their lordships' attention to the facts respecting Restelli. That witness, in his evidence, denied that he was an agent of the Milan commission. He was asked, see page 411 of the minutes (*Ch. p.* 439). "Did you not then become one of the most active agents of that commission?" That question was objected to by the Solicitor-General, but it was put and answered thus—"I was not an agent; they have given me orders only as a courier, which is my profession, and as a courier I have travelled." Here, then, is evidence from Restelli himself of his denial of his agency for the Milan commission. Now the evidence he proposed to tender proved that this Restelli, who has himself, as may be seen in the minutes, already acknowledged that he was employed in bringing persons together, or getting evidence for the commission, and has mentioned the names of individuals he so brought, has also stated to this witness that he has been active in procuring testimony, and giving persons sums of money to come to Milan. Now upon that narrow ground he submitted that the evidence offered ought to be received. In addition, however, to the evidence of Restelli himself, there is, in pages 226, 234, and 235, (Ch. p. 286 and 294,) facts stated by others respecting his agency and active interference in procuring and conveying persons to the Milan commission to be examined. The agency of Restelli for the collection of witnesses he must therefore consider proved. He fully admitted that in all cases in the courts below it was necessary, in order to make the acts of an agent evidence, to prove, as a preliminary point, the connexion of such agent with the principal. But in those courts there was always a known party, to whom reference could be made, as a plaintiff, on any question of agency. In the present case, however, the analogy completely failed; for here

there was no ostensible plaintiff. Were they, for want of a party on the other side in the character of a plaintiff, to be denied the means of proving acts of agency? It certainly was a very narrow ground of objection, and could not be very satisfactory, that, because there was only one party in this cause, namely, her Majesty, the conduct of agents on the other side could not be given in evidence. The facts which he proposed to prove surely could not be immaterial whenever their lordships came to consider the credibility of the evidence. A mass of evidence had been collected. Was it unimportant to ascertain whether it had been given under the notion that the witnesses would derive benefit from their testimony, or whether it was perfectly disinterested? That would be a fit question for the consideration of a jury, and it surely could not be immaterial when put to their lordships. In consequence of the disadvantage of there being no plaintiff in the case, and there being on the opposite side only a shadow, in the form of the Attorney and Solicitor-General, instead of the substance of an adverse party, they certainly could not proceed in the manner which would be required in the courts below. But would it not be an accumulated aggravation of disadvantages, if their lordships were to allow the other side to turn round and say, Because there is no plaintiff you shall not prove agency? The first complaint of the counsel for the Queen was, that there was no plaintiff; were they to add to that, among other things, the not being allowed to prove the agency of Restelli?—It was material for their lordships to know, if possible, how the mass of evidence before them had been got together, and that could only be done by the course of examination he proposed to pursue.

During Mr. Williams' speech the *Lord-Chancellor* asked whether the witness (who was still standing at the bar) understood English.

The Solicitor-General said he had asked him that question yesterday, and he answered that he did not.

Mr. Brougham.—The witness does not understand a single word of English.

Mr. Brougham said that very little remained for him

to add to the clear and able arguments of his learned friend. The first purpose for which they ought to be allowed to go into this examination was to contradict the testimony of Restelli, for he denied in positive terms that he was invested with any agency, and asserted that his occupation was confined to the office of a courier. This assertion of Restelli's their lordships would find in page 411 of the evidence. (Ch. p. 440.) In the first instance then, they would prove by the evidence which they now offered, that Restelli was in another employment and other capacity than those of courier, and that he carried on a very active agency. This would be proved from his own mouth—that was, from what he had himself said to another. If, then, he denied this, which they would prove, it amounted to a contradiction of his testimony. Undoubtedly this was not the most direct and the ordinary evidence for such a purpose. The persons induced to give evidence by Restelli would have been the proper persons to contradict him, and after he had been asked particularly whether he had offered any inducement to them. This evidence they would have offered, if they had known those persons, if they had had any warning of their existence, and of the intention to call them, and if they had been prepared to cross-examine them as to this point. They would have then given what, *ex concessis*, would have been good rigid evidence of the falsehood of Restelli's testimony; for they could have then asked Restelli, "Did you not tell such and such a person to go to Milan? Were you not employed by such and such persons; and did you not use such and such inducements to such and such persons to give evidence?" They could then get the contradiction from the very persons who should have been by name mentioned to Restelli. This would have been the more regular way; but, unprepared as they had been, ignorant as they had then been of the names of witnesses, as of the witness, they were entitled now to obtain the contradiction in the mode proposed. In the courts below it would be allowed in such circumstances, although he confessed, and his learned friend had done, that it was not the most ordinary way. The other ground on which they were

entitled to go into this evidence was, that not only that a contradiction might be proved, but because they had a right to give evidence of all the dealings and sayings of Restelli in the character of agent. They contended that they had let out enough in cross-examination to prove that Restelli was intrusted with so much agency and employment—by whom? By the Milan commission. Their lordships would find this proved in the cross-examination of Raggazoni and Mejani, pages 226 and 234. (*Ch. p.* 286 and 294.) Restelli was himself asked, in cross-examination, "Did you take a letter to Credè?—I went with a letter to a man of the name of Credè. Did not you yourself persuade Crede to go to Milan?" Here Restelli told the means of persuasion which he had used. "I told him that the advocate and the commission at Milan required him, and that both his expenses in the journeys in going and coming would be paid." And again he said that he had taken four or five different journeys; he said indeed as a courier, but when he did that which was not within the province of a courier—when he promised money in the name of the advocate and commission at Milan—it was quite clear that he had been, in fact, an agent. His learned friend, Mr. Williams, had said that there were no parties in this case, as in all other cases; there were not, and that occasioned infinite difficulties to them in the defence. But he did not agree altogether with his learned friend that they could find nothing but shadows for the prosecution. The Milan commission was no shadow, but a most substantial antagonist. They had not found the Attorney or Solicitor-General, he could tell their lordships, to be shades. The parties were the Milan commission, as much as A and B on the record were parties. The fact, then, that Restelli had acted as agent to the Milan commission, let in his doings and sayings as most material evidence. For this reason then, as well as for the purpose of contradiction, they were entitled to proceed with the examination, as proposed by his learned friend.

The Solicitor-General replied, that, as to the first ground, Restelli said he had not acted as an agent generally, but as a courier, and that as a courier he had

directed Maurice Credè and another individual to go to Milan. It was perfectly clear, then, that his learned friends were not at all entitled to go into the proposed evidence on the ground of contradiction; for Restelli himself had said that he was an agent in a certain qualified way, namely, as a courier; and because, for the purpose of contradiction, they ought to have asked particular questions as to particular individuals. Upon the first point there was no ground then; upon the second there was still less ground. It was not enough that Restelli acted as agent, unless he acted as agent by the authority of the Milan commission. Even if it were agreed that the acts of the Milan commission were evidence in this case, was it to be contended, if they had employed Restelli as courier, that every thing he had said could be admitted as evidence? But he would go still further: even if he had acted by the authority of those at Milan, and called Milan commissioners, his sayings could not be evidence. The bare statement of this was sufficient. Undoubtedly it had been competent to his learned friends to have asked any questions of Restelli respecting his sayings or promises to particular individuals, and to contradict his answers if they were not true. But as they had not pursued that course, and had neither to Restelli himself, nor to the witnesses supposed to have been induced by him, put any questions, it was most extraordinary now to inquire into whatever Restelli had done or said through Italy. His learned friend had complained that they had not had time to be prepared. As to time, their lordships would recollect that his learned friend had fixed his own time. Their lordships had granted every indulgence, if he might use the word, in respect to time. It was, therefore, too much now to say that they were entitled to go out of the way for want of time. There was a difference, it appeared, in the opinions of his learned friends; Mr. Brougham considering the Milan commission a substantial party, and Mr. Williams saying there were no parties. It was not for him to reconcile these differences; but when they differed on substantial points, they ought not to come forward to ask their lordships to let them give evidence depending on those points.

Mr. Brougham explained, that he had not complained that he had not had time to prepare the defence, but that when Restelli had been called he had not had time to learn what he had done as agent, and to whom he had applied for evidence against her Majesty.

The Solicitor-General asked why he had not then availed himself of the protracted cross-examinations which had been allowed.

Mr. Gurney was directed to read the question.

At that same time which is now spoken of, or at any other, had you any further conversation with Restelli, about what Restelli was doing as to witness?

Lord Erskine asked the preceding question to be read. (This being done, his lordship proceeded.) Their lordships had evidence before them that Restelli had denied on oath what was proved to have been done by him. If, then, he had intermeddled—he would not use a stronger word at present—but if he had intermeddled in getting evidence against her Royal Highness, the counsel had a right to inquire into that fact, and it was most important for their lordships. He attended there, from day to day, to do all in his power that the strict rules of law might be attended to as far as, in the situation in which they were placed, their proceedings could be assimilated to ordinary proceedings: but it was essentially necessary that all the light should be let in upon this dark transaction which they could let in: he lamented exceedingly that in this transaction they were at the present moment so much in the dark as to the Milan commission. He meant not to impute unfair means of procuring evidence to the noble lord at the head of his Majesty's government; he disdained the idea of any thing of the kind. But when they knew that a commission had been appointed, that examinations had undoubtedly taken place, and that evidence so given originally was afterwards brought before their lordships, they ought to be informed of the origin and character of all this previous proceeding. What light had they upon the manner in which the witnesses became first known, and how they were brought to Milan, and examined upon this subject. What light had they upon any step in the proceeding

before the case came to their lordships' bar? He, for one, had no light at all upon those subjects; and he ought to know, from examinations, cross-examinations, and every way in which light could be obtained. As to Restelli, now was the opportunity of cross-examining him on points which had not been known before. The question now, therefore, was, how the contradictions to Restelli, or the acts which he had done, could be brought before them. Either their lordships must assent to the request of the learned gentlemen at the bar, or Restelli must be called back, as Majochi had been. His opinion was, that it would be the better course to call back Restelli: but was there not agency already admitted? Could any thing be clearer proof of agency—and, he would add, of corrupt and profligate agency—than the attempt to get a witness against her Royal Highness by saying that there were Englishmen at Milan who would see money paid to the witness in return? Was there a noble lord in that House who did not believe that the agency extended farther than they had traced by any inquiries or statements? If not, who could say that it was not necessary to have the whole of this profligate proceeding discovered, discussed, and well considered, before they formed any judgment upon the evidence in general? Before that was done, they could have no means of ascertaining the truth. When their lordships deliberated upon the general question now at issue, there must be nothing left dark, nothing must remain behind. He perfectly agreed that their situation was very different from that of ordinary trials. That was the great evil of the present proceeding, that it left the ordinary course of justice, and intrenched on the ancient constitution of the land. Care ought to be therefore taken by their lordships that this evil should not be magnified. Could he have any faith in the case as it stood at present before their lordships? Restelli himself had admitted a corrupt agency—he said distinctly a corrupt agency, from the facts which were already in evidence. He said, therefore, that their lordships must in some way or other know further respecting the acts of Restelli;

they must know further, or they could not know the truth, or judge with safety in this case.

The Lord-Chancellor said, that it was impossible for any man who felt as all their lordships ought to feel, to doubt that, after what had passed, the gentlemen of the Milan commission ought to have an opportunity of explaining their conduct. It was not consistent for him to make any observation on the evidence before them, as establishing or contradicting any former evidence; for all the evidence would come to be considered hereafter: but it was not consistent with his duty to give any character, good or bad, to any witness. As to the present difficulty, he would say that it did not at all follow, that, because the answer might prove nothing, therefore the question ought not to be put. To be sure, the legal weight depended on the answer, and so it would be here. If the agent had done what was not within his power, that would not be the act of his principal; but it might be proper to inquire into it, for other purposes. If the allegation were that he had offered money, and ten person should say that he had done so, the mere fact of having offered money would not become the act of his principals. But if they should say that he had offered no money, and it should be proved that he had acted as an agent, the principals were not thereby proved to be implicated. Still the question was to be put, and they must take the answer; and for this reason:—if he had said that he had not acted as agent, and it could be proved by the answer that he had acted as agent, although that would not exclude the whole of his evidence, yet it would be a ground for the judge examining most jealously and anxiously his evidence in other matters. Having said so much, he must now advert to a great deal of the evidence on this point, because they were not now in the situation in which they would have been if no previous examinations had taken place on the subject. The evidence to which he wished to call the attention of their lordships was in pages 410, 411 and 412. (*Ch. p.* 439 and 440.) At the beginning of page 410 were these questions and answers:

"Did you offer yourself as a witness to the Milan com-

mission, or did those who pay you your pension induce you to go before them? or how?—I have not been to Milan for this purpose: but I am settled at Milan.

"The question was not, whether you went to Milan, but were you induced to go to the Milan commission, or did you go voluntarily?—I have been sought after."

Why, this man had no doubt as to what was meant by Milan commission, as appeared by his answers. He was asked again,

"How soon after Reganti spoke to you did you go before the commission?—The day after."

Here was an evident admission of his knowledge of a commission. At the beginning of page 411 he was asked,

"Did you not become a very active agent of the commission?—I was not an agent; they have given me orders only as a courier."

He would stop here to point out a distinction which might not appear important to those of their lordships who were not accustomed to consider how important distinctions sometimes were. It was very important. A person might be very active in procuring witnesses, and yet be very different from an agent: and an agent on the other hand may, in a great many senses, have a quite different name, but in substance act as an agent. Then nothing could be inferred against the principal, unless the agent had his authority for the particular act. His lordship read further through this part of the evidence, to show that there was proof of Restelli having been employed by the commission at Milan. Upon reading the name of Mr. Cooke, his lordship said, that when that name fell first from his lips, in course of this proceeding, he must state that he had known him for nearly half a century as one of the most honorable of gentlemen. A higher character for integrity and honor, he declared upon his honor and veracity, he had not known. There was then evidence that Restelli had been employed by the Milan commission, and the question thence arose whether what he had said and done in that employment was evidence? He submitted to their lordships whether, after so much evidence of his sayings and doings had been given, they would not now

hear evidence which they might not hear if the preceding evidence had not been given?

Lord Erskine said, that, let the commissioners be righteous as the righteous could be, the witnesses might have been corrupted, and that was equally fatal to the inquiry in this case.

OCTOBER 13.

Giuseppe Giarolini was called in, and further examined.

The first time I had conversed with him, I was coming from the states of the Pope, and I had a conversation with him in an inn, and afterwards I had conversation with him in other places; but we talked a little upon this subject, and then we talked upon other discourses; and another day we were coming out from the Custom House of Porta Tosa, and I was going out of the ramparts in the street of Circolazione of Milan, and we were then talking about witnesses; he told me that he had gone into my country about witnesses, and then when he was in my country, he went to ask for one witness and that witness went to ask another, that other went to ask another; then they had drank together; and he has asked them whether they were willing to depose against her Royal Highness, and then he asked them, will you come to Milan with me; then they breakfasted at the Tredate coming from Cazzone; from Tredate he went to Musoc, there they dined; when they arrived at Milan they went all together to the inn of St. Clement; when they were at the inn of St. Clement, Restelli told the innkeeper to give them every thing they wanted for their victuals; then afterwards, one after another, he took them before Vilmarcati, and the other English that were there.

On any of those occasions did Restelli say that he had paid money to any of those witnesses?

Mr. *Solicitor-General* objected to the form of the question.

The counsel were informed, that they might ask whether Restelli said any thing about paying money.

Did Restelli say any thing about his having paid

money ?—He told me he had kept them seven days at the inn, and paid forty francs ; that he had paid them forty francs each.

Was any thing said about their expenses besides ?—He told me that he had given to all those people that he had brought from my country forty francs, but that to Raggazoni he gave fifty francs, and that he gave fifty francs to Brusa.

Name any more, if you can ?—He gave forty francs to Paolo Raggazoni, forty francs to Bai Rossi.

Any body else ?—I think Franco Bai, but I am not sure, because he mentioned them all together ; but he mentioned them with his own mouth ; Ambrogio Bianchini, of Leghorn, has also had money.

Mention whether, at the time when money was mentioned, any thing was said of their expenses, as contradistinguished from money given to them ?—Not for the expenses, but he told me that when he went to my country, he employed a chaise, and paid for the posting.

Did he say who paid the expenses of these people at the inn ?—There were many, all coming from my country, and they were all of them at the inn where they were.

Did Restelli say who paid the expenses at the inn ?—He said that he paid them in the day the forty francs, and that Restelli paid the innkeeper, because the witnesses got the forty francs clear.

Cross-examined by *Mr. Solicitor-General.*

Where did those persons come from to Milan ?—They came from Cazzone to my country, and he took them to Milan.

How many miles, altogether, did they travel ?—Some twenty-eight miles, some thirty miles.

Do you mean that it was twenty-eight or thirty miles to go to Milan ?—I do.

You have said something about Raggazoni ; where did Raggazoni go from ?—Restelli came from my country, and went to an inn, and then he sent Brusa to fetch Raggazoni from Binago, which is four miles from Cazzone.

When you say it is four miles from Cazzone, do you

mean that it is four miles further from Milan than Cazzone ?—Nearer.

Did he go to Cazzone, in order that they might all go together from Cazzone to Milan ?—He came with Brusa to Cazzone ; they went to an inn, drank together, and next morning they set out all together.

Did Brusa live at Cazzone, or did he live further ?—At Cazzone.

The witness answered the last question while it was being interpreted.

Have you learned English since yesterday ? — No ; but he spoke very clear ; he spoke very clear, he said Brusa era Cazzone.

Do you understand a little English ?—Nothing ; but it was clear he said where was Brusa, Cazzone ; Brusa was at Cazzone.

Brusa, in point of fact, was sent to bring Raggazoni there ?—He was ; Restelli sent him to fetch him.

Do you know how long they were going from Cazzone to Milan ?—A day.

And of course also a day to return ?—As to returning, they went as they liked, for they had drink, and it was during the winter, and they might have been a day, or a day and a half.

With respect to the grotto, of which you made mention yesterday, how far is it from one extremity to the other ; is it more than forty or fifty feet ?—I do not remember that ; I have been in it every day, but I have not paid attention to the number of feet.

Do you believe that it was about forty or fifty feet, according to the best of your recollection ?—More than fifty ; but I can give the measure in bracchi.

The interpreter stated that the witness did not understand distinctly the word used for feet.

Will you swear that it was more than twelve or fifteen bracchi ?—I will not swear, because I have not measured it ; I must swear what I have measured.

Will you swear that, according to the best of your recollection, it was not more than twelve or fifteen bracchi ?—It is longer in the straight line than from the folding door to the throne.

What have you been paid for coming here ?— Why, I

have not received, but I have made my calculations about my business and about the time I have lost with the engineer Ratti and another gentleman, a doctor or advocate, whom General Pino had sent to make this writing, because my family and my children would not let me go. At Michaelmas time, at Milan, people change their houses, and there is much to do for people of my business, and in going away I was obliged to put another man to go on with my business; another man I have sent into the country to attend to my workmen, because my son I could not send, because he attends the business at home and pays the men; and at last I cannot undertake any business because I do not know the time, though they have told me that it will be for about two months; and whenever I cannot take work at this time, I must go without work the whole of the year; this they have calculated, and agreed to give me 2,100 francs.

Besides that, are your expenses paid?—They are.

What is the name of the advocate with whom you made this agreement?—He has been dictating it, together with Ratti.

What is the name of the advocate?—I have told you I have not asked for his name.

Does he live at Milan?—He lives at Milan.

Is his name Codazzi?—No, the writing has been looked over by this English gentleman, and it was on the following day he asked me whether the writing had been made, and I told him yes.

Was Vassali present at the time?—He was not.

Have you met Vassali upon this business?—At Milan, yes, after the writing had been made.

Did you never see him before this writing was made, upon the subject of this business?—He never meddled himself in this affair.

Where was it you met General Pino?—General Pino was at his house, for I worked for him as the head mason.

Did you see General Pino upon the subject of this business, before you signed that agreement?—I have not seen General Pino, either before or after; Ratti was coming down the stairs from General Pino, for he had

been with him above; and Ratti told me that he had said to the General, that if I was willing to go, he would take care to make me indemnification for my loss.

Was this agreement, of which you have spoken, made with General Pino; did General Pino undertake to pay?—I had not even seen General Pino; he (Ratti) was coming down from the stairs of General Pino.

Who is it that is to pay you this money you have stipulated?—Vassali.

At the time you made this agreement, and when you met Vassali, were there other witnesses there, making agreements?—No, Vassali was even not present when I was making the writing; he has not the slightest concern in it, except to see that I shall be paid.

You were just asked, who was it that was to pay you? you said Vassali: is that so?—Vassali is to pay me.

You have spoken of a sum of money that was due to you from her Royal Highness the Princess of Wales; has that money been paid?—She has paid me entirely.

When was that paid?—I had been partly paid at the end of January, part in March or April, of the year 1819.

You have spoken of some conversation you had with Restelli, and some meetings with witnesses; was that money paid to you by her Royal Highness after those meetings?—When I spoke to Restelli about this business, I had not been paid by her Royal Highness.

How long was it after that you were paid?—When Restelli began to talk to me about this business, I told him I had already received part of the money; I had received the money which was paid in January, and then I answered Restelli, that in a short time I hoped to be paid entirely.

How soon after that was it that the money was paid to you by her Royal Highness?—This is a little confusion; I have talked of the month of March, when a part of my account was still due.

How long is it since the last payment was made by her Royal Highness to you?—The end of April, or the beginning of May.

In this present year?—In the year 1819.

Will you swear, that besides that agreement to which you have spoken, by which you are to receive two

thousand one hundred francs, you have not entered into an engagement with any other person or persons to receive any other sum of money?—Another sum to receive of five or six francs per day, for the family which is at home; but I have made no writing; this agreement has been made by my son; but there is no writing.

With whom was this agreement made: between your son and whom?—With the same architect, Ratti.

Is Vassali also to pay that?—I do not know whether he has received them; he is to receive them from Ratti; but I do not know whether he has received them.

Besides the agreement, by which you are to have your expenses paid, and the 2,100 francs, and this payment to your son, will you swear there has no promise of any other payment been made, either to yourself or to any member of your family, or any expectation held out?—I hope that my time may be considered during the time I am here.

Are you understood rightly, that your son is to be paid five or six francs a day; that you are to receive two thousand one hundred francs, and that your time is also to be paid during your absence?—For the loss of my time; for the two thousand one hundred francs are for the loss I may sustain for the time to come.

Are you to be paid daily for the loss of your time?—As they have told me, that in a month and a half I may return to my country, I have asked a golden Napoleon a day.

(Mr. Cohen, whilst the answer was being interpreted.) He has added, "They did not offer it to me."

Though you have not been promised this Napoleon a day, do you not expect to receive it?—If they give it to me, I do not refuse it; if they do not give it to me, I do not claim it; but if it is a long time, they cannot refuse it.

Besides these various promises and expectations you have spoken of, has there been any other promise made either to yourself or to any other member of your family, of any reward or payment during your absence?—Nothing.

You have spoken of a person of the name of Ratti; is he not by profession an architect?—Yes, but he is acquainted with my family, and with my business; nay, this architect is obliged, out of the sum that they have fixed for the loss I may sustain, to teach his profession to my son; observe, that in regard of this golden Napoleon, I have been obliged to put another person at Milan, and another into the country, for my son cannot attend them, as I have said before.

Besides the sum you are to receive, has Ratti undertaken to instruct your son?—No, he does it as a kindness to my family, because my son is a young man, and he teaches him his business.

Is Ratti to be paid anything for this?—I must recompense him some way or other, for the time he loses; for whenever a person loses his time, in some way or other he must be indemnified.

Have you made any promise to do it?—But according to the visits he will pay to the buildings, he will be paid.

Have you made any promise to pay Ratti?—I have made no promise; he is not a common man that requires a promise to be made.

Is he not architect to General Pino, and was he not architect also to her Royal Highness?—He was the architect of her Royal Highness, and is the architect of General Pino.

Are you to receive any other benefit or advantage by coming here?—The advantage to send me to my country, that is all.

Do not you know that Ratti has been employed to take plans of the Villa d'Este, for the purpose of this proceeding?—One day we went together, to take the plan of the house; there was the old house, and the new house.

Was not a plan also taken of the Villa Villani?—I know not.

Do you know of any other plan being taken by Ratti, for the purpose of this business, except the plan of the Villa d'Este?—Only a part of the Villa d'Este; not the whole.

Do you know of a plan of any other building being

taken by Ratti, for the purpose of this business, except that plan of a part of the Villa d'Este, of which you have made mention?—I know nothing, I have seen nothing.

In that room where the two figures of Adam and Eve were placed, were there not two doors?—To come in and go out.

What was the size of that room across, as nearly as you can recollect; how many bracchi the diameter?—The diameter would be from the outside of the bar before me to the third bench, more or less; I do not know exactly, for I never measured it.

Re-examined by *Mr. Williams.*

How many men had you in your employment when you agreed to come to this country?—Thirty bricklayers, and thirty-four or thirty-five helpers; now, perhaps, I may have more.

What was the name of the English gentleman you alluded to, when you were talking about coming over as a witness?—I do not know the name; I do not recollect the name; a tall man, red, but I do not know his name.

Was it Mr. Henry?—Yes.

When you were talking about coming over here, was any mention made of your expenses—what you were to be allowed?—No, nothing. I have been speaking with the architect upon this affair, but not with him.

Is the sum you have mentioned, or rather are the sums you have mentioned, what Ratti fixed, when you spoke with him (Ratti?)—Yes, because I asked his opinion, and told him all my difficulties; because the Englishman wanted to know exactly, being a man of conscience, and desired I would make an estimate, and I told him so.

Did you tell the English gentleman of conscience the sum Ratti had fixed?—Yes, he asked me; he made a writing, and I told him so.

Who told you that Vassali was to pay you?—The architect Ratti.

You have been asked about there being two doors to

that room in which the statues were; was there any cornice to that room to which any work was done at any time?—During the time I was in the service of her Royal Highness I never sent anybody to work in that place.

Mr. Solicitor-General requested to ask a question of the Interpreter, whether pilastre meant a flat column with a capital and a base?

Interpreter. Pilastre, in Italian, signifies any building, any support, which is not a column; so, if I place in the middle of this house a pile of bricks and mortar to support the ceiling, I call that a pilastre in Italian, of any shape and dimensions, provided it be not a column.

The Lord-Chancellor then asked whether the counsel on either side of the bill had any other question to put to the witness.

Mr. Williams replied that he had, and proceeded to put the following question through the Lord Chancellor:

Was the pilaster of which you spoke, on that side on which the men were at work on the cornice, or on the opposite side of the room?—The opposite side.

When you spoke of the persons employed by you, did you confine your answer to the workmen employed at Milan, or had you any others under your control, besides those?—Some are in the town, some go out, some go here, some go there, some must work, and some must direct.

How many had you under you, when you were at work at the Villa d'Este?—Before the long journey, there were forty or thirty-five bricklayers, besides the helpers; after the long journey, and after I had made the agreement and the contract for the other building, after I had given the estimate that the whole was to be done in six months, I had under me two hundred and three hundred.

The witness was directed to withdraw.

Mr. Brougham.—I wish to know of my learned friend whether we can have access to Restelli. Is he here? Is he in this country?

No answer being returned,

Mr. Brougham said, My Lords, I wish Restelli to be called.

The Attorney-General.—If my learned friend wishes to call Restelli, he certainly can call him.

Mr. Brougham.—I wish to know if Restelli is in the country, and, if in the country, where he is?

The Attorney-General said, that whether Restelli was in the country or was not, his learned friend must take the ordinary means to procure his attendance.

The Lord-Chancellor.—Mr. Attorney, is Restelli here?

The Attorney-General.—No! He is sent to Milan.

Mr. Brougham.—I wish to know, my lords, whether, under these circumstances, after it is made known to your lordships that this individual, whose conduct has been so strongly implicated, has been sent out to Milan —I say, my lords, I wish to know whether I am to be obliged to go on with this bill?

The Attorney-General said that Restelli had been sent to Milan with dispatches, under the idea that he would not be again wanted. As soon, however, as that circumstance had come to his knowledge, supposing that Restelli might be wanted, he had sent a courier to desire his immediate return. If his learned friend had said that he would cross-examine him in the course of the defence, and if he had not rejected the allowance of time which had been offered him by their lordships, Restelli might have been present at this stage of the proceedings. If his learned friend had wanted Restelli, it was his duty to have communicated the fact to him, or to have got an order of their lordships, compelling his attendance. No hint had, however, been conveyed to him that Restelli was wanted. Their lordships had heard the cross-examination, and he put it to them, whether, on that examination, the questions which his learned friend wished to ask could be put? At any rate, if Restelli was his learned friend's witness, he must procure his attendance as he could.

Mr. Brougham knew nothing of the very urgent necessity for re-examining Restelli until the examination of the two last witnesses had closed: but one thing was clear—that his learned friend or his instructors (but who those instructors were nobody knew, though everybody

saw that they were very active) must have seen that he had laid a foundation for contradicting the whole of Restelli's evidence. He held it to be their duty to have kept Restelli here until he (Mr. Brougham) had produced evidence to contradict him. But if there was any thing which they ought not to have done, it was to send Restelli out as the agent of this——Milan commission.

The Attorney-General said, that one reason why Restelli was sent out of the country was a desire to satisfy the general anxiety which prevailed at Milan among the relations of the witnesses about their safety, in consequence of the transaction at Dover. It was requisite to show that Restelli, who had conducted them to this country, and had himself given evidence before their lordships, could return in safety, in order to convince the people at Milan that the witnesses had incurred no danger. He had expected that Restelli would have returned before this time. He was sorry that he had not; but it was impossible that he could have supposed that his learned friend would call him as a witness against the bill, and that he would, at the moment he was going to impeach his testimony, call him as his witness. If his learned friends wanted Restelli, they ought to have served him with an order of their lordships.

Mr. Brougham would not say a word in reply. If the witnesses were allowed to depart out of the country pending the proceedings, there was an end of the security which their lordships thought they possessed, that no perjury should be committed with impunity at their bar. Was he obliged under such circumstances to go on with this case?

Lord Holland immediately rose, and moved that counsel withdraw.

After counsel had withdrawn,

Lord Holland rose to state that, in behalf of their lordships and the cause of justice, that the fact which had just come out at their lordships' bar, that subornation had been practised to a considerable extent, was absolutely monstrous. At the commencement of this unfortunate business a noble lord had risen in his place, and had suggested, very pertinently and very solemnly, that from the nature of the very extraordinary case

into which they were going to enter, resting as it did on the testimony of persons brought from distant countries—upon persons of whom the accused party was totally ignorant—of whose relations, conditions, habits, and characters, the judges, the accused, and the counsel were equally uninformed—it was possible, nay, it was probable, that perjury would be offered at their lordships' bar. It was asked what security they could have against it, inasmuch as they could not hold over the heads of those witnesses the same responsibility that attached to those who usually gave evidence before the tribunals of this country? The noble earl over the way then rose, and, with great appearance of candor and moderation, said, that it was difficult for the government to assume any right, or adopt any provisions for compelling the witnesses to remain in this country. But the noble earl at the same time assured their lordships with great earnestness, that he would leave nothing undone; that he would do everything in his power to secure full justice to the accused, and to protect their lordships from fraud and perjury. He (Lord Holland) had heard in the lobby of that House—he had heard in various parts of the metropolis—he had heard from various classes of people, from the highest to the lowest—much commendation bestowed upon the noble earl for the manliness of that declaration. What now appeared to be the case? Why, it appeared that out of those men who had been dragged to the bar of the House, and some of whom had probably been bribed, it appeared that that very man who had given the most revolting and disgusting testimony, not only had withdrawn, but had been actually sent out of the country as soon as notice had been given that his testimony was to be impeached. Gracious God! can your lordships—I ask in the name of common sense and common feeling—can your lordships suppose that, after such a proceeding as this, great as is the reputation of your lordships, great as is the character of this House, which I have always been eager to uphold by every means in my power—can you suppose that we, who are subject to human failings and human infirmities, can stand in safety when opposed to the suspicion and the odium which

such a proceeding must cast upon us? What is the case, my lords? Here is Restelli, who was employed, by his own confession, as courier to the Milan commission—here is one of the witnesses who stated the most disgusting and unnatural fact that ever was mentioned in a court of justice—here is this man, who is one of that description, regarding whom you were told that every step should be taken that could be taken by the limited authority of this government (and there are some who wish that it were not so limited), to prevent them from being withdrawn from justice;—here is this very man, I say, upon whom suspicion now rests that he has been engaged in suborning witnesses for this prosecution, not merely escaping, but sent away by the government! If your lordships submit to be dragged through the mire in this manner—if, after having solemn promises made to you, you permit them not only to be evaded, but even to be counteracted by those who made them, then are your proceedings a mockery and a burlesque. You will taint, not merely your present proceedings, but all your future measures; you will taint this branch of the legislature, and will involve the country, already reduced to great distress from having blindly followed the counsels of these self-same men upon other points, in still greater distress, and will place its institutions in the utmost jeopardy and danger. He therefore said, with his noble friend (Lord Carnarvon), who had made such a solemn appeal to them that morning, that this matter ought to be set right, or that, considering all these circumstances as forming a *prima facie* case of the existence of a conspiracy to pervert justice, they would do well to get rid of the disgust and fatigue of this infamous proceeding.

The Earl of Liverpool thought that, after the speech of the noble baron, he had a claim upon the indulgence of the House, and he would, therefore, ask their lordships whether, without any explanation of the circumstances, the attack which had been just made upon him was justified by the facts of the case, or by any thing which they knew of his character? He would appeal to their lordships whether, when he gave an assurance to the House, it had not always been his practice to see it

carried into effect? and he would defy any noble lord to show that he had at any period of his public life held ont an expectation which had not been fulfilled. The attack upon himself he would thus repel, and, with regard to the rest of the case, he would now proceed to state that the noble baron had given a most erroneous, fallacious, and inflammatory view of it. He was ready to admit that it was the duty of those who conducted the bill to secure, as far as possible, the continuance of all the witnesses in the country, until the close of it. He was ready to admit that the sending away of Restelli was highly culpable in the quarter that authorized it: but, admitting this, he must, in the first place, acquit himself of all knowledge of that transaction; and, in the next place, he must assure them it was as unknown to the Attorney and Solicitor-General as to himself. He would ask their lordships, then, if this circumstance authorized the suspicion that a conspiracy existed to pervert justice? What was the case? Restelli had been employed as a courier in bringing to England the witnesses for the bill; and, upon the adjournment of their lordships for three weeks, it had been thought by one of the agents for the bill that certain services which were to be performed at Milan would be better performed by Restelli than by any other person. He had, therefore, sent him thither, under the idea that he (Restelli) would be back before the present moment. He (Lord Liverpool) thought that the idea was erroneous. The motive, however, he believed to be good and honorable; and he did not think that the person who had sent Restelli abroad, had done it with any intention of withdrawing him from justice. As soon as the circumstance of Restelli's being abroad became known to the Attorney-General, he ordered a person to be sent out with orders for his return. That was the plain statement of the case. That was the unvarnished tale which he had to tell; and he left it to their lordships to decide whether there existed any grounds for asserting that a conspiracy was on foot to defeat the ends of justice.

The Marquis of Lansdowne admitted the explanation of the noble earl to be perfectly satisfactory. This was

an admission which the noble earl's character demanded. But, having said that, he must state that it was one additional evil to those which they had already suffered in the course of this investigation, that it put such a man as the noble lord under the necessity of making such an exculpation as their lordships had heard that morning. He begged leave to call to their recollection, that, whilst they were acquitting of the criminality which would attach to their proceedings, if they were proved to have originated with government, they were likewise bound to consider what effect they might produce on the interests of the illustrious client who was now at their bar. And if, notwithstanding the efforts and injunctions of the government, it should be found that their own agents, bad, wicked, and despicable as they were, had acted in direct opposition to them, he would ask whether it was fitting that they should visit that illustrious lady with the effects of that villany and wickedness which the persons who employed such agents were now obliged to disavow? He called upon their lordships to consider the necessity of adhering to the rules which they had laid down in the course of this proceeding, and by which they determined in the outset that they should be bound. He was not now making these remarks owing to any thing which had arisen out of the late cross-examination; but, independently of that examination, he would ask them whether it was not proper to enable the House to satisfy itself upon any matter of doubt which might occur in any stage of this proceeding, that the witnesses should be forthcoming immediately? Was the rule which they had made for that purpose of no importance? Had they not found it to be of the very utmost importance? Had they not been able, in consequence of it, to recall Majochi to their bar without any intervening delay? Had they not also been able to recall Carrington, who had been very properly recalled at the request of the noble lord at the head of the Admiralty? What, then, was he to believe, when he found that Restelli, who had given so important evidence, and who ought to be confronted with the two last witnesses immediately, and before he could have any notice of what they had deposed, had

not only disappeared, but had been actually sent out of the country? And then their lordships were to hear it gravely asserted by his Majesty's Attorney-General, that the people of Milan could not be satisfied until they saw the courier Restelli! That Restelli's person must be seen by them, as if it were a certificate, before they could believe that their friends in England were alive, and giving round assertions at their lordships' bar! When he heard that assertion made, he saw immediately that there was no adequate reason for taking that step for which the noble earl had, with manly candor, confessed that blame did and must attach somewhere. It was incumbent on their lordships to do all they could to repair the error which they had committed. What effect it ought to have on their future proceedings he would leave it for their lordships to determine.

The Lord-Chancellor claimed no more credit than was due to him when he said that he knew nothing of the sending Restelli out of the country. He confessed that it was a most ill-timed and ill-judged proceeding. But the well-known character of the person who had done it was a proof that it was not an error of intention, but merely an error of judgment. If it were an error of the former kind, strong language might properly be applied to it; but if it were merely founded on mistake, he thought that the opprobrious terms which had been used did not apply to it. But it was said that great injury must be done to the illustrious accused. He allowed it. But what was the course which it was now proposed to adopt? To call Restelli to the bar? That course, unfortunately, could not be complied with; and he thought that considerable allowance ought to be made in favor of her Majesty, since he could not be brought there to-day. Their lordships must therefore act upon this principle, that the examination, when gone into on a future day—would not be so beneficial to her Majesty as it would be at present: and when they recollected that circumstance, they must give her the benefit of it, in the language of the law, liberally and largely. The noble marquis had said, that it was their duty to repair the injury which they had done her Majesty; but he (the Lord-Chancellor) said it was beyond

their power to do it. Should they be doing her justice by closing the case in its present stage? No man living could lay his hand upon his heart, and say that this would be doing her justice. If, then, justice could not be so done, the proceeding ought not to be stopped; but their lordships, when called upon to decide on the case, must make such allowances for her Majesty as he had before recommended.

The Earl of Carnarvon fully agreed with the learned lord who had just sat down, that there was nothing which they could do that would repair the injuries they had done to her Majesty in the course of this investigation. What, then, was the only remedy left them to adopt? What was the only step which they could take to do her Majesty justice? It was now to put an end, once and for all, to this base and infamous proceeding. How did the case now stand? Her Majesty's defence was interrupted in a manner the most unwarrantable, and the most extraordinary; and, by the admission of the noble and learned lord himself, she could not be restored to the situation in which, if the witness were not sent away, she would have been placed. This occurrence he did not attribute to the noble earl, but to the agents of the government. Here he called on them to stop. Had not they long enough outraged public feeling, disgusted common sense, and disgraced the country, by hearing at the bar of the House, from day to day, that abominable ribaldry, which had been resorted to on this occasion, he knew not for what practical purpose? They ought to consider, whether they were not by their proceedings, rendering themselves objects of execration to every Englishman, and of contempt to all the rest of Europe? How was it that the learned lord proposed to remedy, as well as he could, (for he admitted that no perfect remedy could be discovered,) the default of those with whom the present subject of complaint originated? There was proof that an extensive system of subornation of perjury existed, which they were prevented from probing to the bottom. Well, therefore, might the noble and learned lord admit that substantial justice could not be done. With whom had this gross error originated? Certainly not with her

Majesty's counsel, but with his Majesty's ministers; or, if not with them, some department connected with the prosecution. The case, if, indeed, it could be farther disgraced, or rendered more odious, was, by this last circumstance, reduced to the lowest pitch of infamy. Let their lordships consider well, that if there existed in the other House of Parliament any portion of the spirit which animated the country—if the members of that House had any concurrent feeling with the great body of their constituents—the bill would be defeated there, should their lordships persist in passing it on such evidence as had been adduced at their bar. If they should send it farther—if they should send it to the other House of Parliament—it would tend only to keep up that agitation by which the country had so long been distracted, and which threatened to bring into discredit, nay, to overthrow, the most glorious institutions in the world. These sentiments did not occur to him on the spur of the moment, neither were they the offspring of any angry feeling; they were called forth by the temper which he observed amongst their lordships, and by the feeling with which the public mind throughout the country was evidently actuated. If, for a long time, he had abstained from addressing the House on this subject, it was wholly occasioned by deference to their lordships. He would certainly take the sense of the House on the motion he was about to propose, and he implored their lordships, for the honor of the country, for the honor of that House, for the honor of human nature, to proceed no further with a measure, which, if urged forward, must inevitably produce evils, from the baleful effects of which nothing could save them. The noble lord concluded by moving, "that this bill be read a second time this day six months."

The Lord-Chancellor.—I rise merely to explain. I never could enter this House again, with quiet to my mind, if I admitted, as the noble earl asserts, that this House could not do substantial justice. I am decidedly of opinion that it can do substantial justice. Allowing liberally and largely for the circumstance that has happened, so far from being unfavorable to the individual, it may turn out, on the contrary, to be extremely

favorable to her Majesty. It is impossible, therefore, to say that the House cannot do substantial justice.

Earl Grey said, he never in his life entered on a question with more reluctance, or felt a greater degree of difficulty, than he experienced on the present occasion. Undoubtedly, if he had looked at the subject precisely in the same way that his noble friend had done, he should have expressed, with all the warmth of his noble friend, his indignation at the extraordinary circumstance that had occurred: for he must say, that, by the explanation of the noble and learned lord at the table, it appeared that they were now placed in a situation in which, according to the noble and learned lord's own statements, substantial justice could not be done. What was the statement of the noble and learned lord? He stated that by the abstraction of the witness at the present moment, and the impossibility of producing him now, an injury might be done to her Majesty's defence, which it was out of the power of that House easily to repair. Why then, if that was the situation of the case, if the Queen was deprived of those means of defence which, if resorted to at that moment, might be rendered effectual, and if the necessary means of defence were not fully supplied to her hereafter, he would ask, whether it did not follow, as a plain and inevitable consequence, that the defence was to a certain extent injured, and that substantial justice could not be done? Under these circumstances, he felt himself placed in a situation of very great difficulty; he felt all that had been stated with respect to the disadvantage of interrupting the defence before this witness was called; and he would perhaps be better satisfied if his noble friend did not persevere in his motion. But feeling that the House was placed in a most unlooked-for situation—feeling that there was no possible remedy for the act committed by the agents for the prosecution—if he were asked on that ground whether the proceeding ought to be continued, her Majesty being deprived of those means of defence which ought to be afforded to her, he should, however reluctantly, be obliged to assent to this proposition. Let their lordships consider the difficulties into which they were

plunged. In the first place, he would direct their attention to the contradiction of this witness's testimony. No man could say, that if he were called up immediately after what had been disclosed to their lordships, his examination would not be materially different from what it would be at any future period, when information had been supplied to him with respect to all that had passed on this subject.

Thus an irreparable injury would, in this instance, be done to the Queen. But there was more injury than this. His noble friend had stated, perhaps a little hastily, that subornation of perjury had been proved. He (Earl Grey) would not say that; but he would say, that a strong statement had been made by the witness recently examined, which must show that the individual who had left this country had at least been engaged in endeavoring to suborn other witnesses. What had they heard this day at their lordships' bar? They were told that Restelli went to a witness and offered him a certain sum of money for his evidence; that that witness went to a second, the second to a third, and so on: to each of these witnesses a similar proposition had been made. He (Restelli) did exactly that, (and he hoped he should not be chided for making any observation that seemed to reflect on the evidence which had been given,) but he did exactly that which was likely to influence those witnesses who deposed to the story of Adam and Eve, and other circumstances of a similar nature—points which struck him at the moment as having been obtained in this improper manner. He was not charging a conspiracy on the noble earl opposite; but when such a suspicion was raised as had been excited by the evidence given that day—namely, that if the witness who had quitted this country were examined before any information relative to what had just occurred could be afforded to him, it would render the defence of her Majesty complete and triumphant over the worst conspiracy that ever was formed to ruin the character and destroy the honor of an individual; and if the circumstance of delay rendered it impossible, as it did according to the admission of the noble and learned lord, that the examination could be

pursued effectually and satisfactorily hereafter—then he must contend that, in consequence of what had happened, the House was placed in a situation in which substantial justice could not be done; and if his noble friend persevered in his motion, it must undoubtedly receive his (Lord Grey's) assent, more especially when he coupled the circumstance with the appearance which the evidence had assumed in the course of this proceeding.

Thus far he had stated his sentiments with respect to the motion then before the House, and he would now offer a few observations on the fact itself. It was impossible to hear the fact stated, that this man was withdrawn from the possibility of immediate examination, without reprobating the measure in the strongest manner. The noble earl opposite had done no more than justice to himself when he condemned this proceeding, by applying to it the mild and gentle appellation of "ill-judged." In speaking of it, he would not use such a term. It was not only ill-judged, but he would say that it was most iniquitous. In such a case it was of little use to speak to the characters of those who were implicated. They could not but be aware, generally, from their professional knowledge, and their knowledge of this case, that it was proper and expedient to keep witnesses of this sort in the country, that they might be forthcoming in case any necessity should arise for examining them more minutely. But if ever there was a witness who, from the particular nature of his testimony in chief, as well as from the particular nature of the facts disclosed on his cross-examination, if ever there was a witness whom every person acquainted with the proceedings in courts of justice must have seen the necessity of examining still further, Restelli, he would say, was that witness. The noble earl (Liverpool) had observed, that he trusted his known character would remove from him any suspicion that he had taken a part in this proceeding. He agreed with his noble friend (the Earl of Carnarvon) in giving to the noble earl all the weight and credit which his high character deserved; and when the pledge was given to that House by the noble earl, in consequence of a formal statement on the

subject, that every thing should be done as far as he could contribute assistance to further the ends of justice by keeping within the country all the witnesses introduced in the course of this prosecution, the House, with that confidence in the noble earl's character which it deserved, gave credit to that assurance, and rested with perfect security on it. But if, having given their lordships that solemn pledge, sanctioned by all the weight and authority of his character, the noble earl found himself in this extraordinary situation, that those who ought to obey his instructions, and attend to the pledge he had given to that House, and which a sense of duty should have taught him to respect—if those persons were found to have deceived both the noble earl and the House, what possible security could he have that the ends of justice would not be defeated; or what right had their lordships any longer to assume that the commands of the noble earl would be observed, when they perceived that those agents who ought to act in strict obedience to what he had directed, had, in defiance of the noble earl's pledge, sent a witness out of the country, and rendered it impossible that his examination could be so effectual as it otherwise might have been? But in what situation was the Queen placed by this circumstance? Her Majesty's counsel had trusted implicitly to the noble earl's assurance that the witnesses should not be suffered to depart; but the moment an important circumstance called for the re-examination of one of them, they found that the pledge was nugatory, that no one was answerable for the appearance of the witnesses, that a subordinate agent had sent away one of them, and that in consequence substantial justice could not be done to her Majesty. He must say, whatever their lordships might do, whatever course they might be pleased to adopt, that the whole proceeding could not be too strongly reprobated. Looking at its original introduction, taking its details into consideration, viewing all the circumstances connected with it, and marking, most particularly, the circumstances of the defence of this illustrious person, he must again repeat, that it seemed to him that they were placed, by the forfeiture of the assurance which had been distinctly given to

them, (he meant nothing personal to the noble earl opposite,) in a situation which prevented them from doing substantial justice to the accused party. If, therefore, he was driven to decide on this proposition, whether they should or should not continue this proceeding, he would say, "let it not be continued." The noble lord (Ellenborough) speaking of the mode in which the business was to be decided, observed, that there were two questions for their lordships' decision—one, whether the Queen was guilty or not guilty; the other, whether the bill should be passed on the evidence that had been adduced; and he added a sentiment in which he (Earl Grey) entirely agreed with the noble lord, that, in a case of this nature, there ought to be clear, incontrovertible, unsuspicious, and unsuspected, evidence, to induce them to come to a decision against her Majesty. But he would state, that, on a proceeding of this peculiar description, a proceeding which the noble earl opposite had recommended, and to which he must adhere, with all its circumstances, it was impossible for their lordships to separate those circumstances so as to give an opinion on two questions. They had arrived at the second reading of this bill, and on that second reading, the first question must be, simply, aye or no—on that point their aggregate opinion must be given—there was no question of an intermediate nature. He had stated thus much, viewing most painfully what had happened, and looking at the debates that had taken place, on or before that day, as nothing more than a strong and powerful illustration of all those evils which he had deprecated from the beginning—evils that had been summed up in a compendious observation, which had fallen from a noble lord on a cross-bench, who had stated to their lordships, "that the House were placed in a situation, in which from their habits, they could not appear to the public to be doing justice."

The Earl of Liverpool said, if the fact really were, that, from the circumstance which had occurred, substantial justice could not be done to her Majesty, he would agree with the noble earl that the proceeding should be suspended altogether. But the noble and

learned lord on the woolsack did not state that substantial justice could not be done. He said, on the contrary, that the consequence of the event in question might possibly be beneficial to her Majesty. The noble and learned lord exemplified the position in this way, and he considered the reasoning to be correct—namely, that they were bound to give her Majesty the full and entire benefit, as far as she was concerned, of all the evidence adduced against the testimony of Restelli. And although it might be possible that his evidence with respect to her Majesty could, if doubted, be explained, that still, under the circumstances of the case, such explanation should be entirely put out of the way. Here, therefore, her Majesty might receive a decided advantage. Now, how could their lordships put this great cause, which they were engaged to decide, on an issue such as this? He would assume that some improper proceedings took place at Milan; he would assume that the Milan commission had acted improperly: he would do this for argument sake, (because he knew the government had authorized no impropriety; and while he admitted that the fact relative to Restelli was a most serious one, he must observe, that with respect to all the other proceedings of the commission, so far from any thing improper being proved, rather the reverse was manifested;) but assuming all this, and looking to the whole of Restelli's evidence, it would be found that the case did not stand on that evidence, but that it still rested on the evidence of others—of some who had never been at Milan, or who, having been there, never had any communication with Restelli, or any other person of that description. It was therefore possible, that such a case might be made out on this evidence as would induce their lordships to find her Majesty guilty of the charges stated in the preamble of this bill. Then, he contended, that the argument of the noble earl was, in this view of the case, completely erroneous, because there was no question whether substantial justice could be done. It was quite clear that it could. Nay, the consequence of the situation in which the defence was placed, by the circumstance complained of, might be to deprive the prosecution of the advantage of a great body

of evidence, to which access might have been had if this obstruction had not occurred. He would ask their lordships this, and he put the question to them most seriously, whether, with the evidence on the part of the accusation, and the evidence on the part of the defence, as far as it had gone, and considered in all its bearings, it would be possible, consistently with what was due to the character of the Queen, to suspend the proceeding in its present stage? Would it be possible to satisfy the public mind, or to do substantial justice, if the case were now left without coming to any decision upon it? Whatever might be the final determination, whatever fate in the end might befall the bill, sure he was that the whole case ought to be heard. By hearing the whole of the evidence on both sides, and by that means only, could the House arrive at a just and safe conclusion. He had no difficulty in saying that the House owed it to the honor of the Queen, and to the honor of the country, not to shrink from the question, whether the preamble of the bill had or had not been established. Without anticipating any future questions that might arise, he thought it right to say that nothing could be more unfortunate, nothing in his view more ill-judged, than to smother the main point at issue, the guilt or innocence of the Queen, in questions of mere policy and expediency. By some mode or other the House ought to go to the end of the inquiry, and decide whether the preamble of the bill had or had not been proved. Such was his deliberate opinion of what was due to justice and to the Queen. He had already said that if he thought the ends of substantial justice would be defeated, he should agree with the noble lord; but he wished to say one word on what had fallen from the noble earl who spoke last, as to the flagitious conduct of the individual who sent Restelli to Italy. He allowed that it would have been a flagitious act if the object of it had been to withdraw the witness from justice, but he (Lord Liverpool) was most conscientiously convinced that the gentleman who had been the occasion of it had had no such intention, but had felt convinced that the man would have returned before the House arrived at the present state of the proceeding.

The Earl of Lauderdale rose amid some confusion. He was very anxious to state his feeling upon what had passed in the course of this discussion, and upon the situation in which the House was placed. He must, in the first place, observe, that the proposition of the noble earl arose out of a complete misrepresentation of what had fallen from the noble and learned lord. He had never said, and he (Lord Lauderdale) never understood him to say, and could not conceive how any man could have supposed him to say, that it was impossible that substantial justice could be done to her Majesty, because Restelli was withdrawn. The proposition was so absurd in itself, that it was impossible that the noble and learned lord could have uttered it: on the contrary, he had urged that it was not improbable that the circumstances might turn advantageous to the Queen. And what was the nature of the proposition to rectify this supposed injustice? It was this—that after the whole of the evidence in favor of the bill had been heard, and half the defence had been gone through, the House should stop short and proceed no further. Thus the remedy would, in truth, be the grossest act of injustice that had ever been suggested to any tribunal. It had been formerly urged, that even the slightest delay between the charge and the defence was an atrocious proceeding, and it came from the same individuals who now recommended that the Queen should be permitted only to go through half the case that was to vindicate her in the eyes of the world and posterity. All men were bound to consider her innocent until she had failed in disproving her guilt; but here it was recommended that her Majesty should be deprived of the opportunity of doing so. But their lordships were bound to consider not merely the interests of the Queen, but the interests of the country; and suppose it were asked why the proceeding was stopped, why the Queen was permitted only to be half defended, what would all the countries of Europe, or any independent man on the face of the globe, think of the answer, that this crying injustice had been done because an Italian courier had been sent to Milan? But his noble friend (the Earl of Carnarvon), on the absence of this Italian courier, meant to found

his charge of conspiracy; but he (Lord Lauderdale) put it to their lordships whether there was one among them who believed that Restelli's absence was the consequence of any deep-laid conspiracy? Was the absence of this courier any proof of its existence? or would this circumstance be assigned as a reason why a stain should continue upon the crown of England, which, if the opportunity were afforded, might perhaps still be shown to be pure and unsullied.

Lord Alvanley wished to learn who was the individual that had sent Restelli to Milan, and whether he was one of the Milan commissioners.

The Earl of Liverpool said that it was Mr. Powell.

Lord Holland owed it to himself and to the noble earl opposite to assure the House, that at the time he made his remarks, and before the noble earl had spoken on the subject, he (Lord Holland) was satisfied that he was neither directly nor indirectly a party to the transaction. He founded this conviction upon the character he entertained of the noble earl; for though on many occasions, they were in political hostility, he was ready to acknowledge that on neither side of the House did he know any man less capable of doing what was dishonorable or unbecoming. If he had thus thought before the noble earl had spoken, his opinion was more than ever confirmed by the manner in which he had met the question. While, however, he acquitted the noble earl of the slightest participation in any thing like intrigue or conspiracy, his feelings upon the subject remained entirely unaltered. After the disclaimer of the noble earl, and a few minutes' calm reflection, he still felt bound to say, that the noble earl, on this occasion and others, had undertaken to do more for the House than experience showed he was enabled to perform. The noble earl admitted the proceeding now complained of to be culpable: but when he gave the pledge that no witnesses should leave the country, he ought to have fairly avowed that he had no power to retain them, that they might, if necessary, be subjected to trials for perjury. If the noble earl had thus confessed that there were certain inferior persons, over whom, in this respect, he had no control, the House would, probably, have

adopted a resolution very different from that to which it had arrived. It had, in fact, relied upon the assurance of the noble earl that he would do his utmost to prevent what had now really occurred. Perhaps the noble earl had done all that was possible in his situation: but what the House required and expected had not been performed. Without cavilling, therefore, about words—whether substantial justice could or could not be done, or whether her Majesty's defence was injured—he must say that the House was placed in a situation which prevented it from inquiring into the allegations of the preamble with any probability of arriving at a satisfactory conclusion. His noble friend on the cross-bench (Lord Lauderdale,) who met every subject with good humor, who possessed excellencies of many kinds, and from whom he (Lord Holland) never differed without regret and diffidence, had contended that it would be the greatest possible injustice to stop in the middle of her Majesty's defence. He (Lord Holland) confessed that he was made of sterner stuff on this occasion than his noble friend; he was ready, and had been ready from the beginning, to quash this proceeding; and if the motion to-day submitted had been persisted in, he should have given a vote consonant with that opinion. He felt bound to say that the defence had not only been interrupted, but that it was impossible that it could now be continued with the same advantages it had before possessed. In the course of the preliminary discussions it had been asserted by the noble earl (Liverpool,) that the mode in which this great question was investigated was most beneficial to the party accused, under the supposition that she was guilty. This seemed, at the time, a strange kind of panegyric; only intelligible, in its full extent, to those who were so prodigiously anxious for the honor of the Queen, and, at the same time, that justice in mercy should be extended to her Majesty. When they said "do not stop in the middle of the defence," they in fact meant to deprive her of one great advantage held out by the noble earl in the first instance. His noble friend (Lord Lauderdale) had declared, that he never heard of such a proposition as stopping a proceeding of this kind; but had he never yet read of a

party to a suit being nonsuited for want of evidence? He (Lord Holland) was not well informed upon such subjects, but he begged to ask if no instance was to be found of a trial being interrupted in a court of justice, in consequence of something improper in the conduct of one of the parties, before the jury was called upon to decide on the main question at issue? It would rather be supposed that the other side were arguing on the analogies of law in France than in England. Here, if a man were accused of murder and it came out that he was only guilty of a crime of a different complexion, he had the benefit of his plea of not guilty to the greater offence. He had the advantage of a complex proposition, which, if it failed on one point, failed on all. Yet the Queen, in a case of this importance, and after all that the noble earl (Liverpool) had said in the commencement, was to be deprived of the advantage of this complex proposition. Much fault had been found, and justly found, with the conduct of the individual who had sent Restelli to Italy; and it had drawn from the noble earl a declaration that that individual was free from any criminal intention. He (Lord Holland) recollected Lord Thurlow to have said that he would not take any notice of the conduct of persons in office on occasions like this; because, to make observations was to afford an opportunity of a fulsome panegyric, not only upon gentlemen immediately in place, but upon all those incidentally connected with them. This remark had been illustrated to-day; for, no sooner was the conduct of the individual who had sent Restelli out of the country called in question, than he was immediately pronounced to be a person of most excellent qualities, who had merely committed an error in judgment. In fact, it might be said to be enough for a man to be employed by government, or to be employed by one who was employed by government, to invest him with all imaginary virtues. Thus persons in office were gifted with all descriptions of good qualities; the gentleman whose conduct was now before the House was a person in office: *ergo*, he was gifted with all descriptions of good qualities. Another point connected in this discussion regarded the Alien Bill; and, though he would not now

go at length into it, it was obvious that it formed a very material consideration, and that, as had before been frequently shown, it might be exercised in a way injurious to her Majesty's defence. The noble and learned lord (Eldon) had asserted, that supposing Restelli did not return, the Queen would have all the advantage to be derived from his absence.

It ought, however, to be recollected, that Restelli was not wanted, at the present moment, to be examined as to the testimony he had previously given, but as to the actual existence of a conspiracy against the Queen; whether connected with the Milan commission or not, he (Lord Holland) would not decide. It might, perhaps, be supposed, that Restelli, if he were here, would prove the existence of such a conspiracy; and did the noble and learned lord mean to be understood, that if the witness were not produced, it was to be concluded that such a conspiracy really existed? That could not be meant: and yet, if the noble and learned lord did not mean that, he could mean nothing. It was quite clear that, if the formation of a conspiracy against the Queen were satisfactorily made out in evidence, their lordships would throw out the bill without hesitation. It was thus clear that the ends of substantial justice might be evaded; because Restelli was not here to prove that which, without his testimony, would never be inferred. Then arose a question as to the situation in which the court was placed; and how, under all the circumstances, it was possible to avoid doing injury? It was very true, that if there was nothing in the accusation against Restelli—if he could not establish a conspiracy, or any thing like it—his absence might operate to the advantage of the accused: but if, on the other hand, Restelli could prove that the Milan commission was connected with a conspiracy against the honor and character of her Majesty, and could bring home the charge, justice could not be done without his presence. He (Lord Holland) did not, therefore, stand up for the extension of any indulgence or mercy to the Queen, but for the court itself; because he did not like to go on in a course which, happen what would, the judges could not lay their hands upon

their hearts, and say, "We are satisfied that full justice has been done." If this distressing situation were owing to the laches of the noble earl, he was quite sure that it only arose from an error in judgment. He would not, however, suppose that there had been the slightest neglect of duty on the part of government, and he gave ministers full credit for having done their utmost. Still, the very thing apprehended at the commencement, and against which the assurance of the noble earl was the security, had happened: the course of justice had been perverted, and it was much better to stop altogether than to persevere in a road which could lead to no satisfactory termination.

Lord Erskine said, that though he was ready to vote, with his noble friend who spoke last, to put an end to the whole proceeding, and though an almost irresistible reason had been this day afforded for doing so, yet, as the noble earl (Carnarvon) had withdrawn his motion for this purpose, he should not think it necessary yet to declare his opinion by his vote. He should now move that the question suggested be put, and that the House should then adjourn, thereby giving the counsel an opportunity for consideration.

Earl Grey observed, that as Mr. Powell's name had been mentioned, he ought to be called to the bar to account for his conduct.

The Lord-Chancellor remarked, that it was now half-past four, and that it might be better if Mr. Powell were required to attend to-morrow. The House, however, manifested a decided wish that Mr. Powell should be immediately examined; and counsel were again called in.

John Allan Powell, Esq., was called in, and having been sworn, was examined by the Lords.

Earl Grey.—Were you employed under the commission at Milan?—I was.

Are you at present the agent in the support of this bill?—I am assisting the agents in support of the bill.

Were you present in this court at the examination of Restelli?—I was.

State then why you sent Restelli on a mission out of the country?—I recommended that Restelli should be sent.

To whom did you recommend that?—I recommended it at the Foreign-office.

Was it at the Foreign office you applied to have Restelli sent on a foreign mission?—As a courier.

Did you get passports for that purpose at the Foreign-office?—I did not.

Can you state who did?—I did not.

But you applied at the Foreign-office; you recommended he should be sent on this mission?—If your lordships will allow me, I will give the explanation; Restelli had been the courier who had conducted a great number of witnesses to Dover; those witnesses had been maltreated by the populace at Dover; they were afterwards sent into Holland.

Do you speak to your own knowledge when you say they had been ill-treated at Dover?—I speak from the information of Restelli. I am stating the motives that induced me to make that recommendation. I learned that various reports were propagated in Italy of the dangers which the witnesses for the bill ran, by coming over to this country. I had heard that reports were propagated in Italy that they had received great personal injuries. I had heard that the families of those persons who were here were exceedingly anxious upon the subject of their relations who were in this country. I had understood Restelli to be acquainted with the greater part of the families of those persons, and I considered that it would be an act of humanity to those relations and friends, that some person who had seen the whole of those witnesses in this country, and who was acquainted with those families, should go over there with letters from the witnesses, and having himself been an eye-witness of their safety here, that he should report to those families what their situation really was, and by that means that he should put an end to the great anxiety which I thought those families must necessarily feel for their friends.

Admitting this to have been your motive, did you not know that by sending Restelli out of the country it

would be impossible to examine him here upon the subject of his evidence, if a necessity should arise for that?—At the time that Restelli was sent away, which I think was the Thursday or Friday after the adjournment of the House, I conceived that there would have been ample time afforded before any such necessity could arise: my instructions to Restelli were specific, as far as I recollect, that he was to return here on or before the 3d of October; and at the time that Restelli went, I had a firm conviction in my own mind that he would so return.

Whom did you see at the Foreign-office when you made the representation you have stated?—It was either Mr. Planta or Lord Clanwilliam, I am not certain which, to whom I think I stated that Restelli was to be sent as a courier to Italy.

Did you state to the persons at the Foreign-office, whoever they might be, that Restelli had been examined as a witness at this bar?—I do not recollect to have made such statement.

Did you state who he was?—I believe it was perfectly known who he was.

Have you had any communication which enables you to state whether it is probable that Restelli will soon again be in England?—I have every reason to believe that he will soon be in England, because the most positive directions have been sent, that he should be sent over; that every means should be used to make him come over here.

When were those directions sent?—They have been sent two or three times; the last directions were sent on Saturday or Sunday, the most positive directions.

Has any answer been received to the first directions?—I have learned that Restelli had for some days been violently ill, and confined to his bed with a fever, having been blooded and attended by some medical person.

Lord Alvanley.—Did you ever receive any directions from his Majesty's government not to allow any of the witnesses, as far as you could prevent it, going out of this country, or any instructions to that effect?—I do not recollect any specific instructions to have been given to me to that effect; but at the time I sent Restelli, I had not the least idea that he would be called upon again

as a witness, or that he would be wanted as a witness, until, if this bill should have passed this House, it should have gone to the House of Commons.

Is it to be understood, that no such instructions were given by the government of this country to you?—To me personally, I do not recollect any specific instructions having been given upon this subject; but I certainly was present at the debate in this House, in which the noble earl at the head of the government had stated it to be the intention of the government to take every care they could, that the witnesses should not go away.

Knowing that, did you not consider it at least an act of disobedience to those instructions, allowing or recommending this person to be sent abroad as a courier?—I did not consider it an act of disobedience; I did not give it that consideration at all; I had a full expectation that the man would return; I never would have sent him if I had not had the fullest conviction on my own mind that the man would be here on or before the 3d of October.

Was there any intention, when he went with those letters, of his bringing back other witnesses to rebut those for the Queen?—None whatever.

Could not the families of the persons who are supposed to have been maltreated at Dover have applied at Milan to Colonel Brown for intelligence upon the subject of the witnesses?—They certainly could have applied to Colonel Brown for the intelligence, and many of them did, as I understand, apply to Colonel Brown; he gave them the best assurances he could, but they were not satisfied with those assurances; the reports of maltreatment came from various quarters. I have received depositions of the relations of persons here, in which they depose to having heard of serious injuries received by their relations, and notwithstanding all the assurances which they received to the contrary from Colonel Brown, they were not satisfied with those assurances.

In the event of Restelli's wishing to withdraw himself from judgment, have you, or do you conceive you have any means of compelling him to appear?—Individually I can have no means of compelling him to appear; but I certainly conceive that, from the instructions which

have been sent out, means will be taken with the government of the country in which he is, to compel him to appear, if he should be able to come, and should refuse to come.

Have any of the other witnesses been sent out of the country?—Not to my knowledge, one.

The witness was directed to withdraw.

OCTOBER 14.

The Lord Chancellor took his seat at 10 o'clock, and, after the usual forms had been gone through, business commenced.

The Earl of Carnarvon said, that for the purpose of ascertaining by direct evidence how the case stood with respect to the departure of any of the witnesses, he should beg leave to call for Mr. Planta, of the Foreign-office, to answer such questions as may be put to him by their lordships' bar.

The Lord-Chancellor then put the question, "that Mr. Planta be called in."

It was agreed to, and Mr. Planta was sent for.

The Earl of Carnarvon then moved, "that Mr. Powell be called in."

This motion was also agreed to, and counsel were accordingly called in.

John Allan Powell, Esq., was then called in, and further examined by the lords.

The Earl of Canarvon.—You have stated, that Restelli was sent to Milan on Thursday or Friday after the adjournment of the House; that was on the 14th or 15th of September?—On the 14th or 15th of September. I left town early on the morning of the 15th, on Friday, I believe, but I am not certain that Restelli went the preceding evening. I did not see him go.

Do you know whether Restelli was directed to take dispatches on his way to Sir Charles Stuart at Paris?—I do not.

When you sent Restelli abroad, in how many days did you calculate that he would probably arrive at

Milan?—I calculated that he might arrive at Milan in seven or eight days.

What time was it understood that Restelli was to remain at Milan?—I sent some papers by Restelli to be further legalized, which had been sent over, as I conceived, not sufficiently so: those papers I thought might have been made use of upon the opening of this business again; consequently Restelli was to have returned previous to the 3d of October, to have brought back those papers.

Was Restelli instructed by you to go any where except to Milan?—Nowhere except to Milan; he was to go direct there.

Do you know that at or near the same time any persons who had been sent over here, in order to give testimony in this cause, where sent back to Milan?—I know that, previous to that time, a person who had been sent over here had been sent back, not any person who had been examined.

Was only one person sent back?—I recollect only one person.

Was that person one who had landed at Dover at the same time with Restelli?—He was not.

Previous to Restelli's being sent abroad, you have said that one person was sent back to Milan; was any other person, similarly circumstanced, sent back, or allowed to go back, to any other part of Italy?—Not to my knowledge.

Subsequently to the return of that one person, had no other persons who had come here for the purpose of giving testimony, and had not been examined, been sent back, or been permitted to go back to Italy?—Not to my knowledge.

Are you to be understood that, previous to Restelli's going to Italy, no person who had come here for the purpose of giving evidence or deposition had been sent back, or permitted to return to Italy, except the person you have already mentioned?—Am I to speak from my own personal knowledge?

(The witness was directed to speak from his own knowledge).—To my own personal knowledge there has not been.

To the best of your knowledge and belief?

The witness was directed to withdraw.

The Earl of Lauderdale considered this examination irregular. He could not conceive the object of making inquiries respecting persons who had come from Italy, but had not been examined. He also protested against an examination of the agent of a party in a cause. He did not think their lordships could, consistently with the principles of law, call an agent before them, and examine him as to every step which he took in his client's cause.

The Earl of Liverpool, without entering into the consideration of the question immediately before the House, had no hesitation in saying that he was fully of opinion that any persons who had been brought here as witnesses, and who had not been examined, might be sent back. Indeed it was his wish that they should be all sent back: and were he asked his belief, he would say, that several who had not been examined had returned.

Earl Grey said his noble friend on the cross-bench (Lord Lauderdale) seemed totally to misapprehend the object of the examination. What was the situation in which the House was placed? It was proved that an agent in support of the bill had, contrary to his general instructions, and, as he (Lord Grey) thought, contrary to his duty, sent away one of the witnesses who had been examined at the bar. That agent had admitted his having done so, and, in justification, said that he had so sent him for the purpose of giving assurance to the families of the persons who were in this country to give evidence in support of the bill, who had been, it was stated, very much alarmed by what had happened at Dover. Now what was the object of the examination of his noble friend (Lord Carnarvon?) To ascertain whether there was any validity in this excuse, set up for a step which was universally condemned, except, perhaps, by his noble friend on the cross-bench, but which he too would condemn if it proved to be unnecessary. In his questions relative to this measure, so generally reprehended by their lordships, his noble friend had asked whether certain persons who had not been examined as witnesses, had not been sent back to Italy, who

might have answered the purpose for which Restelli was said to have been sent. It was, doubtless, competent to their lordships to enter on such an inquiry, and without violating any important secrets, which an agent is bound not to disclose with respect to the affairs of his clients. An answer to the question which had been put by his noble friend was indispensable, in order to ascertain the validity of the excuse, if their lordships meant to inquire into this most reprehensible transaction, a transaction the impropriety of which his noble friend on the cross-bench did not deny.

The Earl of Lauderdale said he had expressed his abhorrence of the proceeding ; but the question was most objectionable in the manner in which it was put. It might be asked whether any person who was present at Dover when the witnesses were ill used, and who was also an Italian, had been sent to Italy besides Restelli. If he knew any thing of the law, one of the principles held most sacred was this—that an agent ought not to be required to disclose the confidential secrets of his client. To the question as he had defined it, he should have no objection.

The Lord-Chancellor thought it his duty to state, with respect to the matters now before their lordships, that they could not be too cautious in putting questions to an agent, as, if this were permitted on one side, justice required that the same license should be granted to the other side. The principle, as the noble earl had stated, was this—that an agent should not be called upon to disclose the affairs of his client. The noble earl ought to put the question thus :—"Have you or not sent any other person abroad equally qualified to do that for which Restelli has been sent abroad?" By putting the question thus they might ascertain all that had been done, without inquiring into matters that ought to be concealed.

The Earl of Rosslyn observed, that if the question was put in this shape, the witness might answer, "No." But in that answer they would have only the opinion of witness as to the comparative qualifications of Restelli, and not the fact which they wanted—namely, whether at that period any unexamined witness had

been sent back? Here their lordships had the admission that an agent of the bill had tampered. That agent having assigned reasons in justification of his conduct, their lordships were bound to inquire and decide whether those reasons were valid and justifiable —whether they were real or pretended. With that view he conceived their lordships had a right to press the questions of his noble friend.

The Lord-Chancellor said there might be many cases, in which, from the sacredness of the principle now contended for, difficulties might arise; but if facts could not be obtained without doing that which the law of England would not authorize, the evil must be submitted to. Such questions must not be put in any particular case, on account of the evil consequences to which such a departure from the established practice must lead.

Lord Holland observed, that their lordships had taken upon themselves the commencement and the direction of this proceeding, and the House being, therefore, both principal and prosecutor, he put it to the noble and learned lord on the woolsack whether they might not examine their own agent?

The Lord-Chancellor.—To that question he must beg leave to say, that, whatever its popular effect might be, he would not give it an answer, for it was a question which ought not to be put.

The witness was again called in, and the question was proposed by the *Earl of Carnarvon.*

I have heard that two others have gone.

At the time you resolved to send Restelli to Milan, had you inquired whether it was probable that any witnesses would be soon permitted to depart?—I had made no inquiry on the subject.

You stated that you had received letters, stating that Restelli was ill; from whom did you receive those letters?—From Col. Brown.

Have you got those letters?—I have not them about me.

Have you had any communication from Restelli him-

self since he left England?—None, nor made any to him.

The Marquis of Lansdowne.—Did you instruct Restelli to go to any other place or places than Milan?—I have already answered that I did not.

The Earl of Morley.—Is the House to collect from your evidence of yesterday, that you applied yourself to the foreign-office for a passport for Restelli?—I mentioned at the foreign-office that Restelli was to go as a courier.

Antecedently to your application, were you acquainted with the person of Lord Clanwilliam and Mr. Planta?—I was.

The Earl of Darnley—Do you consider that, as agent for this inquiry, the witnesses are all under your direction and control?—Certainly not under my direction and control.

Did you make the application to Restelli to go as courier, or Restelli to you?—I; not Restelli to me.

Solely for the express purpose of quieting the minds of those witnesses in Cotton-garden?—Of quieting the minds of the families and relatives of the witnesses in Cotton-garden.

Solely for that purpose?—Solely for that purpose, and of taking back those papers; I sent the papers with him as a courier.

Lord Erskine.—If your sole object in sending Restelli was to quiet the apprehension of the families of persons whom they might be anxious for, how came you to send by him the papers to legalize at Milan, the legalizing of which might create some delay, if he was to bring them back?—I did not send the papers that he might legalize them; I sent papers by him to Milan to be legalized, that further proof might be had of them; and I expected that those papers would be legalized in sufficient time for Restelli to bring them back here on or before the 3d of October.

Did you intend that the papers should not be left by him to be legalized in his absence, but that he was to wait to bring them back?—I had no expectation of that sort; it would be left to the discretion of Colonel Brown to send those papers back by Restelli or not.

The Marquis of Lansdowne.—State what families of witnesses now in Cotton-garden you know to be resident at Milan?—To be resident at Milan and the neighborhood.

At Milan?—Rancatti, I think, and the Majochi's in the neighborhood of Milan; I cannot carry in my mind the names of those witnesses; if I could see those names, probably I might be able to point out some others; it was intended not only to the families at Milan, but in the neighborhood of Milan also.

Did you give any instruction to Restelli to quit Milan, and go into the parts of the neighborhood or country adjacent to Milan, where those families resided, for the purpose of conveying those assurances?—I do not remember that I gave any precise instructions upon that subject, but he was to take letters, and did take letters from the witnesses in Cotton-garden to their families.

Then it was by means of those letters so conveyed from Cotton-garden by Restelli that you expected that the families you allude to would derive that assurance?—By means of those letters and Restelli's personal appearance at Milan, and probably the neighborhood, that he would be sent from Milan to places in the neighborhood.

Had you reason to expect that Restelli, without any instructions from you, would go into the various countries adjacent to Milan, in which those families resided, for the purpose of conveying assurance to them by his personal appearance?—I recollect having stated to Restelli that he should take letters to the families of the different persons who were there, and that he should assure them of their being safe, and I concluded that Colonel Brown would send him to those different persons to give that assurance.

Would it have been possible for Restelli to convey that assurance by carrying letters to those families in different places where they resided, and by his personal appearance before them, without incurring a greater delay than that which you stated would belong to his mission?—As I have already said, Restelli left this country, I believe, either on the evening of the 14th or the morning of the 15th, I do not know which, not having

seen him go ; couriers have gone to Milan in six days and six nights ; supposing him to have taken seven, it would have brought it to the 21st or 22d, leaving eleven days before the 3d of October : the distance he had to go into the country would have been either to Monza, which is about ten miles, where one of the families lived, and Como, which is about five and twenty.

Lord Auckland.—Can you state whether the friends of a witness named Signor Cuchi were in a state of anxiety ?—I know nothing of that ; I have no reason to believe one way or the other.

Do you know whether any letter was sent to Trieste ?—By Restelli : I do not know what letters he took.

Can you state what number of letters were sent by him ?—I do not know.

Lord Ellenborough.—Did you send any letter to Colonel Brown, by Restelli, on the subject of Restelli's mission ?—I did.

Have you a copy of that letter ?—I have.

Can you produce it ?—I have it not here.

Can you produce it ?—I can produce it ; it contains a great deal of matter relative to other subjects ; whether in my situation I ought to produce it or not, I must leave to the House, whether confidential communications ought to be produced.

Can you produce that part of the letter which refers to the causes of Restelli's being sent ?—It is altogether a confidential communication, which in my situation I must defer, and submit to the House whether I ought to produce or not.

The witness was directed to withdraw.

The Earl of Darlington observed, that the witness had not been called either by the prosecution or the defence, but by the order of the House. Now, whether he had been ordered to attend by their lordships as judges or as jurymen, or as the House of Lords, he thought that, if he was brought to their bar, permission should be given to counsel on both sides to put what questions they pleased to him upon this subject.

Earl Grey said, that the present question was one respecting an obstruction of justice which appeared to have taken place ; and the person who had sent the

witness out of the way having been called to the bar to give an account of the transaction, he thought it right that the counsel on both sides should be at liberty to suggest any questions that they thought important to the interests of their clients.

The Lord-Chancellor apprehended, that in the courts below, counsel would have a right to state questions as to having this obstruction of justice explained. But here, whether counsel called for evidence to explain it or not, their lordships might call, and had called, for such evidence. If the counsel suggested any questions, he apprehended the House might put them if it thought proper. He did not rise to oppose what had been proposed by the noble lord, but to state that they were now going a length which the lower courts would not go without thereby incurring the danger of doing injustice. If counsel called a witness to the bar at any stage of a proceeding, it was the duty of the court to give him credit for thinking it was for the interest of his client that he had acted as he was acting; and it was material to reflect on the extraordinary danger of putting a question to counsel as to questions which he thought important. In many cases, if counsel were called on for a reason, it would be necessary for them to call on the court to look back, in order to see the bearing of evidence about to be produced; and therefore he thought the safe course was, not to ask counsel any questions on that subject.

The witness having been recalled, was further examined by *Earl Grey.*

You are understood to state, you are in possession of a letter from Colonel Brown, giving an account of Restelli's illness?—I am.

Can you produce, if not the whole, that part of the letter which contains that communication?—I consider all the communications made to me by Colonel Brown in this business as made to me confidentially, and as considering me one of the agents on this bill.

You therefore object?—I therefore object to the production of any correspondence to Colonel Brown, or from him.

Or any part of that correspondence?—If I object to the whole, I object to every part.

You also object to the production of the whole or any part of your letter to Colonel Brown on the subject of Restelli's mission?—I object, in the character in which I stand, to the production of any correspondence either to or from Colonel Brown.

You were understood to say, that you gave positive injunctions to Restelli to return before the third of October?—If I recollect right, I stated to Restelli that he was to be back on or before the third of October, or as soon as he possibly could.

Did you state to him the reason for the necessity of his speedy return?—I do not recollect that I stated any reason for his speedy return.

You were understood to state yesterday, you did not expect that Restelli would be wanted before this business was proceeded on in the House of Commons?—I did not expect he would be wanted as a witness until this proceeding would go on in the House of Commons.

On what account then did you give him so positive an injunction to be back by the third of October, or as soon as he possibly could?—Because I expected him to return with the papers which I had sent, and which I conceived I might want to use upon the re-commencement of the proceedings on the third of October.

It was for that purpose, and not for the purpose of his being called in case of necessity, in consequence of any examinations that might arise in this House?—The necessity of his being called as a witness in the proceedings in this House did not suggest itself to me; the counsel against the bill having stated, that they had no further questions to put to any of the witnesses in support of the bill, his being called upon by them as a witness in the course of their defence did not suggest itself to me.

You were aware, however, of the opinion of this House, that it was necessary all the witnesses who have been examined here should be kept in a state to be produced if necessary, in the course of the proceedings?—That it had been so decided by the House?

That the House had expressed its opinion, and given its orders?—I do not recollect that.

Were you not aware that this House had expressly stated its opinion, that every witness examined in this cause should be kept in a state to be re-produced if necessary, in the progress of this inquiry ?—I certainly understood that, during the inquiry in support of the bill, during the giving the evidence in support of the bill, the House would require it.

You were understood yesterday to state, that you had been present when the first lord of the Treasury stated to the House an assurance that every witness, so far as it was possible for him to command it, should be forthcoming to answer any question that it might be necessary to put to him in the further progress of this inquiry ?—Certainly.

Then were you not aware of the necessity of Restelli, as well as the other witnesses, being kept here for that purpose ?—I can only say, that it did not suggest itself to me at the time of Restelli's going ; if it had in any manner suggested itself to my mind, I should not have thought of sending him.

If any witnesses had been sent back previously, or at the time of Restelli's going, might not they have effected all the purposes of assuring the families of those who remained here of their personal safety ?—I considered Restelli the best person to send back for that purpose, because he had accompanied those witnesses who had been maltreated ; I believed him to be well acquainted with the families, and consequently that he was the best person to go back for that purpose.

You meant then, that he should have a personal communication with the families of those witnesses ?—As far as was in his power, that was my intention.

You considered him as the best agent to have communicating with the families of those persons ?—I thought him the best person to have communication with the families of those persons for that purpose.

The reason then of your sending Restelli back was, that he might have such communication with the families of those persons ?—The reason of my sending Restelli back was, that he might take letters from the individuals here to their friends and families, and that he might

personally communicate the situation in which those persons were here.

State from your knowledge, as an agent in this cause, of the witnesses who have been examined here, whether any one of their families is resident in Milan?—Never having seen their families, or been in communication with their families, I cannot state from my own personal knowledge, any thing about it.

Those witnesses have all been examined here as to the places of their residences?—I do not recollect the places of residence they have stated.

Do you not know that all, except Majochi, have stated that their residence was at other places, and not at Milan?—I do not know, because I do not know where they have stated their residences to be.

You meant that Restelli should have communication with their families?—I meant that Restelli should have communication with all the families, as far as he could, in Milan and the immediate neighborhood.

You have stated, that if a courier goes day and night, and uses all possible expedition, he may go from hence to Milan in seven days, and return in as many?—Six days and nights; I have heard of couriers going in even less time than that, in five days and six nights.

You seem to allow, upon the average, seven days as a quick expedition?—Not an extraordinary expedition: I take it that a courier, using no extraordinary diligence, perhaps I may say ordinary diligence, would get to Milan in six days and nights.

Do you think a courier, using his utmost diligence, could go from hence to Milan and return, without any delay there whatever, in less than fourteen days?—I do think so; I think he might.

Did you expect that Restelli could have performed the journey in less time than that, there and back?—I can scarcely say what my expectation was; I generally calculate a courier's going in six days and nights; I know it has been repeatedly done.

Supposing this man had travelled twelve days and twelve nights without intermission, that was the least time in which it was possible for him to go and return from Milan?—I do not say the least time, but that is

the time he would probably have taken, if not a day or two more ; he might have taken a day or two more.

Then state what time there was left, considering the time occupied in going and coming, for him to execute this commission of personal communication with the families of the witnesses, so as to make it possible for him to have been here again on the third of October? —Supposing him to have left London on the evening of the 14th, he would have arrived at Milan on the 20th ; I believe he went on the evening of the 14th, allowing six days for his return, whenever that might be, that would be the 26th ; he would then have seven days.

Did Colonel Brown state in his letter to you the date of his arrival at Milan ?—I do not recollect that he did.

On referring to your letters, if you find the date stated, should you have any objection to communicate it to the House ?—I can have no objection to communicating that, except that I object to communicating any thing.

You object to communicating the mere fact of a date ? —The mere fact of a date I could have no objection to communicating, except as forming a part of the confidential communication that has taken place between Colonel Brown and myself. I consider that I ought in my character to object. It is not that I should have any any personal objection, but I consider it my duty to object to making any communication of correspondence of that nature.

Lord Kenyon.—Have any of the persons whom you have stated to have been ill used at Dover, returned to Italy ?—None to my knowledge, except Restelli himself, who was ill used.

Was there not a woman among those persons ?—I understand there was; I understand one man has never recovered the effect of it, he has been deaf ever since.

Is that woman still in England ?—She is.

Did Restelli bring more than one set of witnesses to this country ?—I do not recollect, I have no knowledge of it.

What were the names of those witnesses whom Res-

telli brought?—Does the question refer to the witnesses whom he brought to Dover?

Any witnesses he brought to this country?—I cannot recollect all the names, I can recollect some he brought over to Dover, as I understood; I did not see them.

On inquiry, can you ascertain the names of those witnesses whom Restelli brought?—I could on inquiry ascertain the names.

Can you state what was the greatest distance of the residence of any witness from Milan, whom Restelli brought to this country?—I cannot: I do not remember the names of all, therefore I cannot state.

Do you conceive Restelli could communicate with the families of the witnesses he brought here, by going to Milan?—That he could conveniently communicate with them all, certainly.

Do you know the names of the two persons, whom you state to have been sent back to Italy?—I stated one person to have been sent back to Italy.

Do you know his name?—I do.

Can you state it?—Aquabuona.

Lord King.—Did not you know, that you had lost all control over Restelli the moment he quitted England; and might not any other courier, not placed under such circumstances, have conveyed the intelligence to the families of the witnesses?—Personally I lost all control over him, but I do not know that I ever had any control over him; I have already stated, that I did not think any other person could so well have communicated that information.

The witness was directed to withdraw.

The Earl of Liverpool only wished to state, that whatever legal difficulties the witness might feel himself under, upon professional grounds, with respect to the production of the letters in question, they would not influence him to raise any objection to their being brought forward, if it was the pleasure of the House. It might still be a question with their lordships how far any thing of confidential communication contained in those letters was proper to be made known.

The Earl of Lauderdale wished to understand what was the precise object intended by such a course. In

point of fact, it was one more fatal to judicial proceeding, and to the propriety of all judicial proceeding, than any he had ever heard of. In this case, the witnesses, for instance, had deposed on oath what were their several residences. Their lordships had since, upon a point arising out of the case certainly, but not upon the case itself, examined, also, one of the agents for fhe prosecution, touching the same matter, the residence of witnesses. Now if that individual had contradicted his own witnesses, he (Lord Lauderdale) desired to know in what situation their lordships would find themselves, after such confidential agent should have perjured himself? He only mentioned the supposition, in order to found his objection to the course pursued.

The witness was again called in.

Earl Darnley.—You have stated, that you consider that the witnesses for the prosecution are not under your direction and control; do you know under whose direction and control they are?—I can scarcely state under whose. I consider them under the control and direction of the government generally, and the agents of the government.

Who is the person immediately authorized by government to see after those witnesses, and to direct and control those witnesses; do you know of your own knowledge?—There are several persons who reside in the place with them, under whose immediate direction, whether control I cannot say, but under whose direction and care they are.

In point of fact, are persons admitted to see the witnesses, or refused admission, by your order?—I have given directions, that persons should be admitted to see the witnesses, and certainly I have given directions, that strangers should be excluded; not that a constant, direct, and free communication should be had to the witnesses by everybody who wished to go there, because I thought it inconsistent with their safety.

Earl of Derby.—You are understood to state, that you did not consider Restelli to be under your direction or control; under what authority did you take upon yourself to send Restelli from this country?—As a person

assisting, an agent, perhaps, I may call myself; a person assisting in support of this bill; I conceived that I had a right to send Restelli, that I had that sort of implied authority.

Did you send Restelli out of this country of your own mere motion, without any communication with any other agent in the cause?—I do not recollect whether I made any communication to any other agent in the cause; I know I spoke of it generally; I made no secret of sending Restelli.

You were not asked whether you made any secret of it, but whether prior to sending this gentleman out of the country, you gave directions solely from your own head, that he should so go?—I do not remember any communication to any other person; it is possible I might have made it.

You took it solely upon yourself to send this person, whom you did not consider under your control, out of the country upon this occasion?—I took upon myself to send this person as a courier upon that occasion.

Lord Kenyon rose to submit a motion, that the names of all the witnesses whom Restelli brought over be laid before the House by the witness. If any noble lord objected to this return, he should, undoubtedly, feel it his duty to divide the House upon it. He then asked,

Can you state the names of those witnesses whom Restelli brought over to this country?—I did not see the witnesses brought over by Restelli, I can merely state it from hearsay, therefore I have no personal knowledge as to who they were.

Lord Kenyon desired the following extract to be read from the former evidence of the witness:

"Did Restelli bring more than one set of witnesses to this country?—I do not recollect; I have no knowledge of it.

"What were the names of those witnesses whom Restelli brought?—Does the question refer to the witnesses he brought to Dover?

"Any witnesses whom he brought to this country?—I cannot recollect all the names; I can recollect some whom he brought over to Dover, as I understood, I did not see them.

"On inquiry, can you ascertain the names of those witnesses whom Restelli brought?—I could on inquiry ascertain the names."

Lord Kenyon moved that the witness give in a list of those names.

The Earl of Winchelsea.—Did you consider yourself as having any authority over Restelli to order him to go out of the country?—If the man had refused to go out of the country, I certainly had no authority to order him; I even considered him at liberty to go if he pleased, and that I could not have stopped him; I conceived that he was under no legal restraint.

The Lord-Chancellor asked the counsel whether they had any questions to submit.

Mr. Brougham.—My lords, I wish to ask the witness one question:

Who is your client or employer in this case?

(Cries of Order, order.) The witness was directed to withdraw.

Mr. Brougham.—I am sure your lordships will allow me to proceed, when I say that I wish to explain my object in making the inquiry. This question is put for no purposes but the purposes of justice, and in order to enable us the more effectually to perform our duty to the illustrious party for whom we appear. My lords, I submit that it is most important to us that we should be enabled to put this question to this witness, as the first one who has yet been called, in the course of these proceedings, that can give us the required information. Is it of no consequence to us (contending from day to day, as we have been, and engaged, as we at this moment are, without any specific party on the other side,) in order that we may be able to fix that opposite party with his agent; is it of no consequence, I say, to ask the witness this question, so that we may procure that important evidence, which is not evidence unless it comes from the opposite party through his agent? My lords, if I knew who the party is against whom I appeared, *non constat* that I may not bring forwards a mass of evidence furnished by himself—namely, speeches, declarations, and acts of that opposite party. Again, my lords, whatever be the name of this unknown—this interesting

unknown—your lordships see that, not knowing at present who this undiscovered being is—not knowing whether he have in truth "a local habitation and a name"—not knowing whether this shadow may not vanish into airy nothing, after he has eluded all sensible perception—I cannot fix him with any character. If I am told who he is, I may then be able to trace his lineaments, and at length to bring out the mighty secret who and what he is from his own mouth—if he have one. I know, my lords, that the rule of law is close on the subject of the professional confidence of agents. I do not deny it. But here there is no party. Prove to me who the party is, and I will not disturb the professional confidence of his agent. And who is the party? I know nothing about this shrouded, this mysterious being—this retiring phantom—this uncertain shape—

> "If shape it might be call'd that shape had none.
> Distinguishable in member, joint, or limb—
> Or substance might be call'd—

And such, your lordships will admit,

> "——— That shadow seem'd,
> For each seemed either.———
> "——— What seemed his head,
> The likeness of a KINGLY CROWN had on."

Yet under this shape, this "airy nothing"—and I know not whether it be one, or either, or neither, or both I am to face the adverse party; I am to be met at every turn, and in every part of the proceeding, by not being able to put a single question to this visionary personage. I am to pursue this shape—

The Lord-Chancellor said, that the question could not be put to a witness called to account for his having permitted a person examined as a witness to leave this country; but if he wished to propose such a question, he must for that purpose call him as his own witness.

Mr. Brougham.—How many witnesses, previous to the 14th of September, were here on the part of the bill from Italy?

The witness was directed to withdraw, and the *Lord-Chancellor* objected to this question also, and said the

counsel could not put that question ; but might ask how many had left this country.

The witness was again called in.

Mr. Brougham.—How many witnesses who had ever come over in any way to this country, in support of the bill, to the best of your knowledge and belief, had left the country before the 14th of September ?

The Earl of Lauderdale objected to the question.

The Earl of Carnarvon supported it : the object might be to ascertain what witnesses who had seen the treatment of some of the others, at Dover, had returned.

After some explanation between the *Earls of Lauderdale* and *Carnarvon*,

Mr. Brougham put this question to the witness :—Previous to Restelli's being sent back to Italy, how many of the witnesses had, to the best of your knowledge and belief, returned to the North of Italy after having been here ?—I do not know of any ; to the best of my knowledge and belief, none.

Will you undertake to swear, that at the time that Restelli was sent back, you did not know and believe that any persons who had been in this country as witnesses, had returned to the North of Italy ?—To the best of my knowledge and belief, none.

The question relates to witnesses who have been here and have never been examined at all ; will you undertake to swear that none of those witnesses who had not been examined, had gone back at that time to the North of Italy ?—None ; I have no recollection whatever of any. I know of one person who was sent over here as a witness having been sent back to the South of Italy ; I know of no person who had been sent over here ; I have no recollection of any person who had been sent over here ; I have no belief of any person who had been sent over here having returned to the North of Italy ; if there be any names, and you will state them, it may bring it to my recollection. There were so many persons that I cannot possibly take upon myself to recollect every name of every individual who has come over here ; some have come over that I have never seen.

Will you take upon yourself to swear that, at the time Restelli was sent back, no other person employed as a

courier under the Milan commission had ever gone from this country to the North of Italy after the Dover riot; Krouse, or any other person employed as a courier under the Milan commission?—After the Dover riot, certainly not, under the Milan commission; I consider the Milan commission to have ceased its functions upon the return of Mr. Cooke and myself from Italy, early in the month of June, 1819; having left Milan myself in the month of May, for the last time, but having ceased to act in the month of March, 1819. I do not consider myself as having acted under that Milan commission in this country.

The question relates to any persons employed as a courier in relation to this bill, and to the persons to be examined in support of this bill?—Certainly couriers have been sent from this country since the Dover riot.

Will you give the names of some of those persons who have so gone backwards and forwards since the Dover riot?—Does the question mean down to the present time?

Down to Restelli's departure?—I know as a courier, Krouse.

Had not Krouse brought over some of the witnesses from the North of Italy?—Yes.

Has any other person gone backwards and forwards, since the Dover riots, as a courier to the North of Italy?—Other persons have gone as couriers to the North of Italy.

Who?—I do not know; Krouse is the courier I know.

Did you know of Krouse having so returned to Italy after the Dover riot, at the time you sent off Restelli?—I did.

Did you also know of those other persons having gone as couriers at the same time?—I did.

Did you send any other courier, besides Restelli, to give information and comfort to the families of the other sets of witnesses besides those whom Restelli had brought over?—Letters were taken from all the witnesses and sent to Colonel Brown by those different couriers, by other couriers besides Restelli.

Were any of those couriers, besides Restelli, directed to go round to the families of the witnesses, and to give them better evidence than their handwriting of their

friends being still alive in this country?—When Krouse was sent to Milan, with letters from the witnesses here, I considered that Colonel Brown would make use of Krouse in giving any information of that nature.

Did you give any instructions to Krouse, similar to those you gave to Restelli, to go about to the families when he took the letters?—I do not recollect any instructions, any particular instructions to Krouse.

Did you give instructions to any of the other couriers to the same purport with those you gave to Restelli?—I sent my letters to the other couriers; I had not personal knowledge of those couriers; I sent my letters to the Foreign office to be forwarded; but I beg to state, I received information from Milan that the families of persons there were not satisfied with the assurances given by Colonel Brown, and further, that reports were circulated that the letters which were sent by individual witnesses from this country had been forced from them, and that they had been obliged to write them in that way, stating their safety.

Name any persons who gave you that information?—I received information to that effect from Colonel Brown.

Will you mention the names of any families who were so uneasy?—Colonel Brown's information was general; but I can name an individual to whom a representation had been made, after such letters had been sent, that her husband had received great personal injury, the wife of Rancatti, who had been sent for express by a person in Milan to be informed of that, as I understood.

Did Colonel Brown suggest at the same time the propriety of sending Restelli for the purpose?

The Solicitor-General submitted that his learned friend had no pretension to examine the witness as to the contents of a letter written to him by Colonel Brown.

The Lord-Chancellor.—It has been repeatedly suggested, in the course of this proceeding, that the party examining should be informed whether such communications are written and confidential ones. If so, no person has a right to ask such a question as that now propounded.

The witness.—I may be allowed to state, that all the communications I have made, have been in writing.

The Lord-Chancellor.—Then that writing cannot stand as part of the evidence, unless the counsel choose to call the witness as a witness on his side.

Mr. Brougham.—Your lordship will observe that this question arose out of a statement given by the witness himself, in order to explain his own evidence.

The Lord-Chancellor.—It is quite clear that you cannot ask him.

Mr. Brougham.—Will the House allow me, then, to ask the witness another question?

The Lord-Chancellor.—In point of form the question ought to be put, my lords, through me. I have not interfered before, because it appeared to me that counsel on either side were interested to make out or to destroy the necessity of the examination of Restelli. But I must object to the whole course of the present examination. Further than that necessity of examination, or otherwise, they cannot go. If you cannot make it out by parole evidence, but only by the contents of a confidential communication, you cannot make it out at all.

Mr. Brougham.—Did you not know that Restelli never knew one of those witnesses whom he brought over, nor their families, and never had in his life seen one of them before the journey?—How can I know that?

Do you not know that Restelli has sworn it in this place?—Whatever Restelli has sworn appears upon the minutes.

Had you read those minutes before the 14th of September, you being agent for the bill?—I did read the evidence; I do not recollect to have read Restelli's evidence; I have heard it.

Did you not hear Restelli swear that he never had seen one of the eleven witnesses he brought over before he came the journey with them, consequently could not know them or their families?—At page 413, (*Ch. p.* 441,) he says, in his evidence, "Some I know, some I do not know; those I know, I know because we came together, but I had never seen them be-

fore."—I cannot take upon myself, now, to say what I heard Restelli swear.

Then have you not sworn that your reason for sending Restelli, in preference to anybody else, was because of his knowing the families of those witnesses?

The Attorney-General objected to this question, and complained that Mr. Brougham had read a part only of Restelli's evidence.

Upon the *Lord-Chancellor's* suggestion the following extract was read from page 413 of the printed minutes: (*Ch. p.* 441.)

"Who are the persons with whom you came?—Some I know, some I do not know; those I know, I know because we came together, but I had never seen them before.

"Who are they?—They are various; I knew them by sight before, but I had no intimacy with them.

"State their names?—Of some I can say, the others I do not know.

"State the names of those you do know?—Carlo Rancatti, Geralimo Mejani, Paolo Oggioni, Philip Riganti, Henrico Bai, Finette, the wife of Majochi; perhaps there may be some more, but at present I do not remember them."

Mr. Brougham observed, that the matter was just where it stood when the Attorney-General interrupted him. Restelli, as he (Mr. Brougham) had said, knew them by name only.

The Lord-Chancellor.—We don't want any observations: let counsel proceed.

Did you not hear the whole of that evidence given by Restelli before you sent him?—I am not sure that I heard the whole, because I frequently go in and out of this House, therefore I cannot take upon myself to say that I heard the whole; but I must beg to observe, that the sending Restelli had not reference merely to the families of those witnesses whom he brought over with him to Dover; the occurrence at Dover had occasioned an alarm to the families of all persons who were sent over, or to come over as witnesses in support of this bill.

Do you mean to state that the intention of sending

Restelli was, that he, Restelli, should at Milan go round, and in the country in the neighborhood of Milan, not merely to the families of those he had brought over, but all others who had come over, and others also who might come over?—To the families of all those that had come over, as far as he could; and, under Colonel Brown's direction there, Restelli was to go and to take letters to the families and relations of persons who are here; as to the families of those who might come over here as witnesses, it could have no reference, because they were not in danger.

State, not within one or two, but as nearly as you can recollect, how many witnesses came from the North of Italy?—I cannot tell.

As nearly as you can tell, about how many, not within one or two, or six or seven, but about how many witnesses came over from the North of Italy in support of this bill?—I cannot tell; I do not know the numbers who are here now, and I cannot tell.

Will you swear there were not forty?

The Attorney-General objected to the question, as totally irrelevant.

Mr. Brougham contended it was not, for that the witness did not confine his answers to the witnesses who came with Restelli, but spoke of them generally. He now said that he cannot swear to the number, even to a dozen.

Had Restelli remained in this country the whole time which intervened between the riot at Dover and the 14th of September?—Restelli went to Holland.

Did he go any where else?—I cannot tell.

Had he any instructions to go any where else?—He had instructions to go to Holland.

Had he instructions to go to any other place?—Not that I know of.

Will you swear he had not been back at Milan between the riot at Dover and the 14th of September?—No, I will not undertake to swear that he had not; I did not see him afterwards.

State the language you used to Restelli in giving him his instructions before he set out on the 14th, as far as is connected with this inquiry?—As far as I can recollect

(I cannot state the precise words) I told him he should collect letters from all the witnesses who were there, and that he should take them, and see the persons in Milan and that neighborhood, and communicate to them the situation in which he had left them—that they were all safe—in order to ease their minds from the alarm that was, I understood, prevalent.

Did Restelli make any difficulty about going?—No, he did not make any difficulty about going.

Did Restelli say anything about coming back at that time?—He said he would come back as soon as he could; I knew that Restelli was a very important witness in the proceedings on this bill, and that he would be a very important witness, as I believed, in the House of Commons, in case the bill should go there; I had no motive whatever, therefore, in sending him, except that which I have stated; and I certainly repeat what I have before said, that if I had not had the strongest conviction in my mind that Restelli would have returned to this country, no inducement whatever, and no feeling, should have made me send Restelli out of this country.

The Attorney-General.—Were you present in this House when the Attorney-General of the Queen stated that he did not intend further to cross-examine any of the witnesses who had been called in support of the bill?—I was, and heard him so state.

Has any intimation ever been conveyed to you, or to any other person to your knowledge, by the agents or counsel for her Majesty, that Restelli would be wanted again to be cross-examined by them?—None whatever; and I considered it not at all probable that Restelli would be wanted to be cross-examined by them, because I had understood the House to have called up Theodore Majochi, who was the only person called up for re-examination, under special favor, and as a special act of the House, not one to be continued with respect to all the other witnesses, who had been examined and cross-examined, and their cross-examination done with.

Has any intimation ever been conveyed to you, or to any person to your knowledge, that her Majesty's counsel meant to call Restelli as a witness for the Queen?—None whatever.

Had you, when you dispatched Restelli to Milan, or had any other person with whom you have communicated, to your knowledge, the slightest intention of withdrawing Restelli from this country, in consequence of his having given evidence in support of this bill?—None whatever, and no person, for any consideration whatever, should have prevailed upon me to do such a thing.

Joseph Planta, Esq., was called in, and having been sworn, was examined by the Lords.

The Earl of Carnarvon.—Are you under secretary of state in Lord Castlereagh's office?—I am.

Do you remember any application having been made to you by any person in the month of September for a passport for an Italian of the name of Restelli?—I remember that Mr. Powell came to me in the office in the month of September, and stated that it had been determined to send Restelli as a courier, and desired me to take the official steps for that purpose.

What did you do in consequence of that application?—I, in consequence, ordered the passport to be made out for him, and took the steps which were proper.

By whom was that passport signed?—By Lord Castlereagh; that is to say, if I might be allowed, I should explain that; there are signed passports kept in the office ready for such occasions, that therefore it was a signed passport which was used for that purpose.

Did you make any application to Lord Castlereagh respecting the granting of that passport?—I did not.

Did you, of your own accord, grant that passport, in consequence of Mr. Powell's application?—I did.

Is it the practice of your office, for persons in your situation to grant such passports to couriers, without an immediate order from Lord Castlereagh?—It is the constant practice.

Had you received from Lord Castlereagh, or from any other person, any instructions with respect to the granting passports, or otherwise, to persons who had attended as witnesses at the bar of this House in the progress of this bill?—I had received no instructions whatever from

Lord Castlereagh, or any other person, with respect to witnesses or persons attending at the bar of this House.

At the time that passport was granted did you know that Restelli had been examined as a witness upon this bill?—I knew it generally, from the knowledge one has from reading the newspapers; the general knowledge one obtains of the events of the day; but I did not know it otherwise that I am aware of.

Do you know on what precise day that passport was granted?—I believe on the 14th of September.

Do you know whether Courier Restelli was charged with any dispatches from the Foreign-office, or only the dispatches given to him by Mr. Powell?—I think certainly not with any dispatches from the Foreign-office.

Do you know whether any passport has been granted to any courier for the purpose of calling back Restelli?—I know that passports have been granted to other couriers, but what the object of their going might be I do not know; what I mean is, that I do not know, of my own knowledge, that their object was to recall Restelli.

In what capacity did you consider Mr. Powell to have applied for the passport for Restelli; in what capacity did you consider him as acting?—As an agent on the part of the prosecution, certainly.

When Mr. Powell made the application for the passport for Restelli, did he at the same time make an application for other passports for other persons to return to Italy with Restelli?—I think certainly not.

Has Mr. Powell made any application to you, at any other time, for passports for other witnesses on the part of the prosecution to go away?—Certainly not.

Were you acquainted with the orders of this House at the time you granted this passport, the order respecting the witnesses not being allowed to leave this country?—I had no knowledge whatever officially of it; I merely knew it in the same manner that one would know any thing one sees in the newspapers.

The Lord Chancellor asked whether the counsel wished to propose any question to be put to the witness.

Mr. Brougham.—Did Mr. Powell say any thing else to you respecting Restelli's going back to Italy at that

time ?—As far as I recollect, he mentioned something about Restelli's being a proper person to return to satisfy the families of the witnesses here ; he made some statement of that sort, but I did not attend to that, I did not consider it as my business, I merely did the official act.

Did he say any thing else respecting Restelli's return to Italy at that time ?—I really recollect nothing else that he stated.

Did you recollect his mentioning that Restelli had been examined as a witness at that time when he applied for the passport ?—I do not recollect that he did.

Was anybody by at the time of this conversation with Mr. Powell ?—I really cannot recollect, it is a month ago, whether there was anybody in my room at the time ; there are a great number of persons constantly in my room ; I fancy there may have been others. Mr. Powell came in and staid but a short time, but I cannot recollect whether there were others ; it is very likely there were other persons in the room.

You say that passports have been granted since the 14th for couriers ; do you mean to send couriers on business connected with this bill ; this prosecution, as you call it ?—Certainly, I do mean that.

What was the earliest of the passports after the 14th of September granted in this way ?—That I really cannot recollect ; I cannot possibly know that now, at this moment.

How soon can you take upon you to say that a passport was granted of this description to the North of Italy after the 18th of September ?—I really do not know ; I do not keep the book of the dates of the passports, all I have to do is to give the order for its being done ; it is done, and a register kept of it ; I do not keep the dates myself, and therefore I do not recollect the next date after the 14th.

Endeavor to recollect the date of the other passports with the same accuracy as you have recollected this ?—In consequence of what had passed, I ascertained last night, from the proper official person, that it was the 14th ; previously to so doing I had no knowledge of the date of that.

Mr. Planta then withdrew with directions to ascertain the date of the earliest passports after the 18th September to the North of Italy.

The counsel were directed to withdraw.

The counsel were again called in, and the counsel for her Majesty were directed to proceed.

Mr. Brougham then, addressing their lordships, hoped that he and his learned friends might be allowed to retire for five minutes before they made up their minds on a question of so much importance, and that required so much consideration.

The Lord-Chancellor said he joined cordially in the feeling manifested by their lordships generally, that the request of the learned counsel ought to be complied with.

Mr. Brougham.—For about a quarter of an hour.

The Lord-Chancellor.—During your own pleasure.

The counsel then retired, and remained out half an hour.

A few minutes after two o'clock, Mr. Brougham, Mr. Denman, and the other professional advisers of her Majesty returned to their stations below the bar; his Majesty's Attorney and Solicitor-General, and their co-adjutors, also made their appearance.

The usual motion, "that counsel be now called in," having been agreed to,

Mr. Brougham advanced to the bar; and, being asked by the *Lord-Chancellor* what course he meant to pursue with respect to the further progress of the case, the learned gentleman said, that in the extraordinary circumstances in which he and the other counsel for her Majesty were placed, and under the new and insuperable difficulties by which they were surrounded, he felt it impossible to announce to their lordships any determination which they had come to as to what future course they might feel themselves compelled to pursue in the further conduct of their case, more than to state that they would to-day pursue a little further the line of examination in which they had been engaged yesterday.

FILIPPO POMI was then called in, and having been sworn, was examined by *Dr. Lushington*, through the interpretation of the *Marchese di Spineto.*

In what part of Italy do you usually reside?—At the Barona.

How long have you resided there?—In my own parish for thirty-five years; in the place where I work by day, fourteen.

Is the Barona the name of a parish?—It is.

Have you resided in the house at the Barona, where the Princess of Wales resided?—I have been living fourteen years in that house.

Do you remember the Princess of Wales residing in that house?—Yes, I do, by night and by day.

What are you by trade or profession?—A carpenter.

Do you know Giuseppe Restelli?—I do.

Was Giuseppe Restelli in the Princess's service?—He was a groom.

Do you know Louisa Demont, a chambermaid in the Princess's service?—I do.

Do you remember, in the course of the last year, Restelli coming to the House at the Barona?—I do remember it.

By whom was Restelli accompanied?—Restelli came together with the son of the head master.

Was Demont with Restelli at that time?—Demont came half an hour after, in a carriage with other persons.

Were Restelli and Demont on that occasion together in the house?—They were.

What did you see Restelli do on that occasion?—I saw them make a little drawing or plan up stairs.

Did Restelli, on leaving the house, offer or give you any money?

The Attorney-General objected to this question. The witness ought to be asked, what did Restelli do?

Dr. Lushington conceived the question to be perfectly regular.

The Attorney-General.—You cannot lead.

Dr Lushington.—I don't mean to lead the witness.

The Attorney-General.—My lords, I apprehend that this is a leading question.

Mr. Denman.—I apprehend that it ought to be rather

a leading question. Restelli has sworn that he offered no money to procure witnesses, and we have a right to ask a direct question, for the purpose of contradicting him.

The Lord-Chancellor held the question to be admissible; and, after it had been read by the shorthand-writer, the witness answered, as follows:

He asked me whether I had received presents from those persons who had come, and I said no; and he afterwards made me a present.

Of what amount?—He made me a present of forty francs, two half Napoleons or forty francs.

Did Restelli say anything respecting Mademoiselle Demont then, when he gave you the money?

The Attorney-General interposed.—Their lordships could not receive evidence as to what Restelli said to a third person.

The Lord-Chancellor.—The question, I apprehend, ought to go to this—not whether Restelli offered anybody, no matter whom, money—but whether he offered money to any person coming here as a witness.

Dr. Lushington.—Certainly, my lord, that is the way in which I meant to follow it up.

Did he offer any money to induce you to come here as a witness?—He did offer me on another day, not on that day; but he offered me not—not on that day, but he told me, that if I had anything to say against her Royal Highness I should receive a great present.

When was it he told you you should receive this great present if you had anything to say against her Royal Highness?—I said that I had nothing to depose against her Royal Highness, and that I had nothing to speak but well of her.

State, as nearly as you can, the exact words which Restelli used when he told you that you should have a great present if you came to speak against the Princess?—He told me, "Pomi, if you like, you may make yourself a man;" I asked him in what manner, he answered, "You, who have always lived in this house, day and night, may have something to depose against her Royal Highness;" I said, that I had nothing to depose against that lady, who had always done a great deal of good.

Was Mademoiselle Demont present upon that occasion?—She was not.

Did Restelli, at the time he made you this offer, mention the name of Demont to you?

The Attorney-General objected to this question. A conversation about Demont could not be received in evidence.

Mr. Denman submitted that, as a question likely to lead to important information with respect to transactions connected with this case, in which Restelli was engaged, it ought to be received.

The Attorney-General.—The witness has sworn that Demont was not present at the time, and therefore the question was irregular.

Mr. Denman.—The circumstance of Demont's not being present is of no importance whatever.

Lord Erskine observed, that the reason for asking the question was quite obvious, and it appeared to him to be one that ought to be answered. Restelli, it appeared, had taken an active part in this business, not only as a courier, but as an agent who procured witnesses. He was charged with having acted corruptly, and it was necessary to trace how far that corruption went. Therefore, whatsoever this man knew, that could inform their lordships on this part of the case, ought to be given in evidence, subject always to cross-examination and contradiction hereafter.

The Lord-Chancellor said, under the peculiar circumstances of the case, he thought the question must be admitted. Something had been asked, on account of the absence of Restelli, which, if he were present, could not properly be received: and he could not shut out evidence of that, which, if Restelli were at the bar, could have been explained by himself, because it was not the fault of those who opposed the bill that he was not forthcoming. If the case were otherwise, the question certainly would not be regular. Let the evidence now go on.

The Attorney-General.—I must ask of your lordships, is this question to be put.

The Lord-Chancellor.—Yes, it is.

The question was proposed, and the witness said.

No; because it was a few days after that he had with me this conversation.

Dr. Lushington.—The witness does not appear to understand the question.

The Solicitor-General said he and his learned friends protested against putting a question of this description to the witness. It had been admitted that if Restelli were here it could not be put, unless he was himself called and examined to the fact. He contended that such was the legal rule. The question could not be put unless Restelli was called to the bar, and interrogated as to the fact. If Restelli, on being so interrogated, had denied it, then it would have been competent for the other side to call witnesses to contradict him. Such was the undoubted rule of law. But it was said, that because Restelli was absent, the counsel for the defence might go into a course of examination that otherwise could not be permitted. But why should this be allowed, when, in consequence of the unfortunate mistake with respect to Restelli, the counsel on the other side might make a proposition to their lordships for the postponement of the further proceedings on this bill until the return of Restelli? It appeared to him to be fraught with great danger, if, on account of the accidental absence of this man, her Majesty's counsel should be allowed to take a line of examination that was never before tolerated. They might ask questions, the witness knowing Restelli to be absent, which, if he were here, would perhaps be answered in a very different manner.

Mr. Denman.—How does the witness know that Restelli is not here?

The Solicitor-General.—He was now asked, how the witness knew that Restelli was not present? He did not state positively that the witness did know it; but if he were in such a situation that by possibility he might know it, that was sufficient for his purpose, because it was clear that such knowledge might cause a material alteration in the witness's evidence. When he heard Restelli called "a corrupt and profligate witness in this case," he would say, that, so far as the evidence went, there was no proof to bear out such an assertion.

He denied, on his oath, that he had participated in any transactions of such a nature; and witnesses, on the other side, had come forward, and sworn that he did. But he would ask, whether, in this stage of the question, any person, viewing the proceedings that had taken place before their lordships, could fairly take on himself to say, before the evidence was finished, before the case was concluded, that this man was "a corrupt and profligate witness," or that he was proved to have been implicated in any transaction that ought to prejudice his evidence in the minds of their lordships? It was, he conceived, the duty of the counsel on the other side to make application to their lordships, as Restelli's evidence was material to the defence, for a postponement of the proceedings until he came back; but he thought it was wrong, during his absence, to suffer, on that account, an examination wholly inconsistent with the rules of evidence, and entirely unfit for the elucidation of truth, to be persevered in.

Mr. Denman denied that her Majesty's counsel were bound to make any application to their lordships for a postponement of these proceedings; all they had to do was, to make such exertions as they might deem fit for her Majesty's defence, considering the peculiar circumstances in which she was now placed. And here he might be permitted to assure their lordships, that if Restelli had been in this country, it was the wish of her Majesty's counsel to have produced him at the bar of the House, as Majochi had been. Under the expectation that he would appear when called, her Majesty's counsel had actually summoned the witness at the bar to follow him, before they were apprized of the fact that Restelli had been *spirited* away from this country. When her Majesty's counsel were thus situated—when, without any error on their part, they were deprived of a great advantage—he called on their lordships to support their claim to an extended examination. He, at the same time, entertained no doubt whatever, that the course her Majesty's counsel were now pursuing was accordant with the strict rule pursued in courts of justice. Restelli said he had nothing to do with the Milan commission, except as a courier; but her Ma-

jesty's counsel would prove, from his transactions, that he acted in another capacity; that he exerted himself to procure witnesses for money to swear against her Royal Highness. Restelli expressly swore, that he offered no money to any person to appear in the present cause, a statement which her Majesty's counsel were ready to rebut. In answer to this deposition they would show that, by a reference to the name of Demont, Restelli did made such an offer. Therefore he thought it necessary that the mention of the name of Demont should be proved, since it was by a reference to that person that the offer was made. He stood here upon the right which he was entitled to assume, in consequence of the extraordinary absence of Restelli, being perfectly convinced that the witness now at their bar was prepared to contradict his evidence, to show that many of his statements were altogether false. If, however, their lordships thought that her Majesty's counsel were not entitled to go into the matter arising from this question, he was still prepared to act with confidence on the proved agency of this man. On that point he was ready to proceed. It appeared that Restelli was the agent, not the courier of the commission; and, for the purpose of a further contradiction of that man's testimony, he had a right to inquire as to what he had stated relative to Demont. He had clearly a right to show that a certain representation had been made by Restelli, when he referred to the name of Demont, which involved a contradiction of the evidence he had given before their lordships.

The Lord-Chancellor.—Let the two or three last questions be read.

The shorthand-writer read them.

The Attorney-General was then heard. He apprehended that the question could not be put, for the reasons so forcibly advanced by his learned friend, which were not met by any sufficient arguments on the part of her Majesty's counsel. He had heard it repeatedly asserted that this man Restelli was acting in the nature of an agent, for the purpose of procuring witnesses to attend at their lordships' bar; and that, therefore, what he had stated as evidence was not to be credited. Now

he would assert, that agent this man never was for any such purpose. The only purpose for which he was employed appeared to be to bring witnesses to Milan, to be examined before the Milan commission; but there was no evidence that he ever procured witnesses to be examined before their lordships. He would ask whether it was ever heard of, in a prosecution like this—in a criminal prosecution—that the conversation of an absent person was attempted to be proved, when he himself might be called and examined? It was said that no party appeared in support of the bill. Who was the prosecuting party in every criminal prosecution? The public, always. But was it ever known, in any criminal prosecution, that an examination might be carried on through the medium of a third person, when the individual whose words were to be proved might himself be called. Restelli stated, that he was employed on the Milan commission to conduct evidence to Milan, evidence that certainly might afterwards support the bill. But the question asked of him was, "Did you receive money to bring witnesses to the bar of this House?" and his answer was, "No." The question now put was, not whether he gave money to bring the present witness to their lordships' bar, but it referred to a conversation which was held with the witness, in which the name of another person was mentioned. He would contend, however, that his learned friend must confine his examination to the question originally put to Restelli, namely —"whether he offered money to any person to come to that House?" to which question he had answered, "No." As to the fact of such an offer having been made to the witness, he knew that evidence relating to it might be received; but, as to Restelli's conversation with other persons, he denied that any deposition on that point could be attended to, even if he were present, except to contradict, supposing him to have declared that he had held no such conversation. He would now call back their lordships' recollection to what had taken place at the close of the case for the bill; he would call their recollection to the express declaration of the Queen's Attorney-General, that he should want no farther examination of the witnesses in support of the measure.

He knew their lordships had reserved to themselves, under the exigencies of the case, the right of calling back witnesses, if they thought it necessary.

This, however, was not meant for the advantage of the counsel on the other side; their lordships only asserted their right to call back witnesses for their own satisfaction. Now, however, her Majesty's counsel, after their express declaration, wished to put questions to a particular witness. They had stated no cause why they wished to bring him forward again. All that he understood was, that Restelli was to be brought up as a witness for the defence—as the witness of the other side; not for cross-examination, but as a direct witness. But if he even were at the bar, they could not, in that case, ask him as to those declarations, because they could not summon a witness to come forward with a view to make him contradict himself. If Restelli were at the bar that instant, called forward by his learned friends on the other side, no examination of the nature now attempted, with respect to the case of Demont's name on the occasion alluded to, could be allowed. Then, he would ask their lordships whether his learned friends were justified in placing themselves in a better situation than they would have stood in if Restelli were present? His learned friend had said he wished to call this man to the bar as a witness for the defence. But if he were present, not a question that had been asked, put in the way in which they were put, would have been allowed. As their own witness, his learned friends would not be suffered to ask questions to make him contradict himself. He would point the attention of their lordships to the situation in which they were now placed. He regretted, in the fullest extent, the circumstance of Restelli's absence on this occasion—his innocent absence—occasioned by an ignorance of what was likely to occur. But, because this individual chanced to be absent, were they to depart from all the rules of evidence? If his learned friends conceived that Restelli was a witness in their favor, on this inquiry, then, he contended, that a certain delay should be prayed for by them in order that he might be brought here as their witness. It was for their lordships to consider whether

such a delay should be granted; but if an application of that description were not acceded to, his learned friends ought not to be placed in a situation to which they could have no claim if the individual were present. He trusted that their lordships would not come to a conclusion as to the character of Restelli, until the proceedings were terminated; he hoped they would wait, with reference to that point, as he was sure they would do with respect to that which was of infinitely more importance—the truth or falsehood of the preamble of this bill—until the whole case was proved. Whatever Restelli had done or said, their lordships would decide on by weighing and balancing the evidence. They would view the whole case with a judicial eye. Looking to the law of evidence, he submitted, with great deference to their lordships, that this question could not be put. The witness had been asked whether an actual offer of money had been made to him; that question had been answered; and he would maintain that they could not afterwards go into evidence as to a conversation in which the names of other persons were mentioned.

The Lord-Chancellor.—The witness had been asked whether any money had been offered to him, and he had given his answer to that question. It was, therefore, a matter for their lordships' consideration whether the subsequent interrogatory was not stretching the inquiry too far. Perhaps it was not, if they considered how peculiarly circumstanced they were. With respect to the witness whose evidence was meant to mislead, he was bound, until the moment that witness was convicted, to consider him as honest a man as any that had been produced in the course of this proceeding. If, in the end, he was contradicted, so as to put it out of his power to clear himself, then he and their lordships would have a right to take a different view of his character.

He could not agree that the witness should be described as one who had been "spirited away." He was away, beyond a doubt, but there was no reason for saying that he was spirited away. It would be for their lordships to decide whether, because counsel, when

asked if they had any further questions to put, answered in the negative, therefore, for the reasons that had been stated at their bar, the sending away of a witness was allowable. He did not think, because a counsel stated that he had no further questions to ask, on cross-examination, that it must be taken as granted that a necessity might not arise for a further examination, in consequence of information which that counsel might have received at a subsequent period. Circumstances might be disclosed which would induce the counsel to call the witness back again, for the purpose of putting certain interrogatories to him, the answers to which he might have an opportunity of contradicting. As it seemed to him, the learned counsel for the defence meant to call Restelli as a witness in chief: so, to him, it certainly appeared. But he could not go the full length of saying, because it so appeared to him that it was intended to produce Restelli as a witness in chief, that therefore it would have been incompetent to the learned counsel to have waved their determination, and called him as a witness, whose declarations after he was examined were to be contradicted. Undoubtedly, their lordships were placed in a situation of great difficulty, not by any fault of their own—not by spiriting away a witness—a circumstance which would, by and by, be fully, fairly, and impartially discussed :—the great difficulty they had here to contend with was this—whether, as Restelli had been sent out of the country by some of those who were now acting in support of the bill, they were to impose on her Majesty the disadvantage of postponing her defence, not in consequence of her act, but of their act? If Restelli had been here, different questions might have been put to him relative to the point spoken to by the present witness. If he had denied the alleged facts, that witness might have been called to contradict him. But his absence had altered the course of proceeding. The matter finally resolved itself into this point—if the question now put were admitted, whether it did not go to confirm the fact that Restelli had made such applications as had been alleged, under particular circumstances—whether he had not used the name of another witness, who was actually coming to this country, at his

desire—and whether, in that conversation, in which money was offered, the name of Demont was not mentioned as a species of communication, that was to induce the witness to accept of a reward. These were very important questions, and could only be put to the witness in consequence of the absence of Restelli. In the first place he wished some of the preceding questions and answers to be read.

The shorthand-writer read the principal part of the examination.

Dr. Lushington then proceeded.—I want to know, at the time the second conversation took place, when the offer of money was made, whether the name of Demont was mentioned by Restelli?

The Attorney-General did not think that the question now put was consistent with the questions and answers that preceded it.

The shorthand-writer read a considerable portion of the examination.

The question was then put in this form:—

Where did this second conversation take place?—It took place on a morning that he called upon me, and we went together to the inn.

Did he then make you any offer or promise of money if you would become a witness against her Royal Highness, in what words, as nearly as you can recollect?—He told me, "Pomi, if you have anything to depose against her Royal Highness, now is the time; you will have a great present; you will become a great man, and shall receive a great present;" we went to the inn together, and we drank there.

Did he then, when he told you you should have a great present, mention the name of Demont?—Yes, he did mention the name of Demont.

Did he mention the name of Demont with reference to any offer of money that he made you?

The Attorney-General objected to the question.

The Lord-Chancellor said the counsel might ask with reference to what did he mention the name of Demont.

With reference to what did he mention the name of Demont?—I asked him whether Demont was still in the service of her Royal Highness; he told me that she

was; he did not mention to me her name on the day he was taking the drawing, but he mentioned it on the second day, and told me that she had made a good day's work: we were there at the inn, and we drank together.

Mr. Brougham begged to put a question to the interpreter, whether the witness had not added to the answer which had been now translated, the words which he was about to mention. Two or three gentlemen, not within the bar, had heard the witness add, (here Mr. Brougham repeated in Italian, words to the effect) that Demont had received a large sum.

Mr. Cohen was asked by Mr. Brougham whether he had not heard those words, and he stated that he had.

The question and answer were read by order of the House, with the addition that "she, Demont, had got a great sum of money."

The Earl of Liverpool suggested that Mr. Cohen should be sworn to the hearing of the words stated to have been added by the witness.

The Attorney-General submitted that the question ought to be again put to the witness, and the witness could then himself give the whole answer.

The Lord-Chancellor directed the interpreter to tell the witness, that when he, the interpreter, held up his hand, to stop the witness, the witness should understand that he was to delay the rest of his answer till the interpreter was done with translating the former part; for no human memory could carry every word of a long answer at once.

The interpreter communicated this to the witness.

The question was again proposed, and the witness said,

I asked him for this thing, because I told him, tell me how is this business, for he told me that Demont was still in the service, and then I found out that she was here; and he told me at that time that if I would depose something I should have a great present; and I said that I had been night and day, a long time, in the house, and I never saw any thing that enabled me to speak ill of that lady; then he told me you know nothing, for I tell you that that house was a very bad house,

bad women, and so; and I answered that this was a real falsehood, for I had been in the house day and night, and I saw nothing of this, and we ended so.

The Attorney-General objected. What had the conversation between Restelli and the witness to do with the evidence before their lordships?

Dr. Lushington contended that it was most material evidence. That Restelli offered money was a fact of the greatest importance in this case, and the whole of the evidence now given went to prove that offer.

The Lord-Chancellor asked if the answer now given by the witness was part of the conversation in reference to Demont, and suggested that the question should be put, "Whether any thing more was said relating to Demont?"

The question was put, and the witness answered, "No."

The Lord-Chancellor said that would not do, for the witness did not appear to understand the question.

The witness was directed to withdraw, and *Joseph Planta, Esq.*, was again called in, and asked by the *Lord-Chancellor*,

What is the first date after the 18th of September of any courier going to the north of Italy on this business?—It appears to be on the 28th of September.

The witness was directed to withdraw, and *Filippo Pomi* was again called in, and further examined by *Dr. Lushington.*

Was it upon this occasion, that Restelli used the expression you have repeated, of making a good day's work?—Yes, it was on that occasion, that he was going about making recruits.

State all that Restelli said about making a good day?—I cannot express it; I must only say that he told me, that on that day, when she came there to make that drawing, she had made a good day.

Do you know a person of the name Riganti?—I do, he is a companion of Restelli.

Where does Riganti live?—At the Porta Ticinese.

Of what trade is Riganti?—He sells salt, tobacco, brandy, and other liquors.

Does he live at Milan?—He dwells out of Milan, at the distance of two gun shots.

Has he ever asked you to come and depose against the Princess?

The Solicitor-General objected to the line of examination now attempted, as Riganti had not been witness in this case.

Dr. Lushington trusted that he should be able to justify the question by reference to the printed minutes. On page 410, (*Chap.* 439,) Restelli swore that he had not gone voluntarily of his own accord merely, before the Milan commission; the question was then put to him, "Who asked you to go before it?" and his answer was, "The first time a man of the name of Riganti asked me to go to the advocate, Vilmarcati;" adding, that Riganti was a tobacconist at Milan. Upon this testimony the learned counsel submitted that he was entitled to give as direct proof of the acts of Riganti as if he had actually been a party promoting the bill. It was well known to the House that the counsel for the Queen labored under unexampled difficulties, the prosecutor never having yet taken shape or form. He hoped that on this account their lordships would feel no disposition to enhance their difficulties, by preventing them from showing the acts of agents without the necessity of calling those agents to prove their agency. The evidence of Restelli distinctly proved, that Riganti was, like himself, an agent, but whether of the Milan commission, or of any other person or body, could not be ascertained. The part of prosecutor here seemed rather to be sustained by a joint-stock company than by an individual, compounded of the House, the government, and the notorious commissioners of Milan; and whatever was done by subordinate agents must be treated as the acts of the principals, and might be proved accordingly. The prosecutor had appeared before the country already in two capacities at least: first, the government, who, aided by the junta at Milan, had originally got up the case; and, secondly, their lordships, who, with

some ingenuity and considerable caution, had been converted from judges into prosecutors. All that the emissaries of the Milan commission, directed by the advocate Vilmarcati, had done—all the exertions they had made in collecting and brewing testimony against her Majesty, might be given in evidence at the bar, on the part of the accused. If it were otherwise, the hardship upon her Majesty was evident; for the prosecutor would have all the benefit of screening his underlings. Mr. Powell had this very day claimed the benefit of doing so; and the Queen's counsel would be under the double disadvantage of submiting to all the testimony the agents in Italy had gathered, without being at liberty to call in question any of the acts of those agents. What had been done in the particular case? On the application of Riganti, Restelli went to Vilmarcati, and there he was interrogated as to what he had been able to learn, and, adopting the agency of Riganti, Vilmarcati took Restelli before the Milan commission. He humbly prayed their lordships to consider in what condition the Queen would be placed if they refused the evidence now proposed to be given. If they rejected proof to show that individuals had gone over the whole of Italy, and indeed of Europe, committing subornation of perjury, it would convince the world that such conduct might be pursued with impunity, and the result would probably be, that other witnesses, obtained by the same shameful means, would crowd their lordships' bar. What hope of justice could there be if the House refused to inquire into all the acts of these agents, who, it was established, had thus busied themselves in manufacturing a case against her Majesty? Upon the whole, he contended that the question he had put ought to be answered, and that the line of examination ought to be pursued, that their lordships and the country might know how the evidence had been obtained by promises and hopes of reward.

Mr. Denman begged to add a few words on the same side, reminding their lordships, that, though this was now admitted on the other side to be a criminal prosecution, yet it was also a divorce-bill, and that there were certain parties on whose behalf it was solicited.

It was likewise said to be a proceeding for the purpose of obtaining substantial justice; and he begged leave, with great humility, to ask whether substantial justice could be obtained by the extensive system of subornation of perjury carried on in the north of Italy to purchase all the purchaseable witnesses against her Majesty; more especially if those witnesses were to be screened, who were not only paid for coming to the bar of this House, but for going before Colonel Brown, Mr. Powell, and the advocate Vilmarcati, at Milan. Riganti was at present in this country; at least he was one of the individuals who came over with Restelli; and whether he had returned to Milan to quiet the apprehensions of his friends and connections, he knew not; but if he were still in England, the counsel for the Queen would certainly not put a person into the box as their witness whom they charged with the commission of crimes of the deepest dye. He could not, without surprise, be told that her Majesty was bound to make Riganti or Restelli witnesses on her behalf, when the very object of interrogating them would be to fix them with conduct the most abominable and atrocious.

[Some persons here observed that such conduct was not yet proved.]

"I do not say (continued Mr. Denman) that such conduct is yet proved against them; but I apprehend that, as an advocate, I have a right to impute it. I have a right to state that such is the case I will make out; and I have a right, in every stage of the proceeding, to assume that what I assert I shall establish in evidence. I do not know that I should be justified in saying that these persons have been *spirited* away, or whether I should convey my meaning in a periphrasis, or only that they have been sent away: certain it is that one of them has disappeared at the instance of one of the Milan commissioners, in defiance of a direct order of the House of Lords, in direct violation of a solemn pledge given by a peer at the head of the government, and by the assistance of an office over which another noble lord so warily presides. Unless my lips are to be sealed when I enter upon the defence of my illustrious client, I shall maintain, and I think it is but

fair to give notice to all parties, that the most malignant and extensive conspiracy ever devised against the honor of a persecuted individual is the sole source and origin of the disgusting mass of corrupt evidence now upon the table of the House. It is to establish that fact I now claim, on the part of the defendant in this most criminal prosecution, that we should be allowed to prove the agency of Riganti. Unless I am to be told by the Attorney-General, that, this being a criminal prosecution, the conduct of the prosecutor is entirely out of the question, I apprehend there cannot be the slightest doubt that the mode and circumstances under which this evidence has been scraped together is most material to the great issue before the House. On that ground we tender the evidence now resisted; and, if we are not to be excluded from the only advantage this mode of proceeding offers to the accused, we must be allowed to proceed with it. If her Majesty had been indicted, or impeached, there might, perhaps, be some little question whether the acts of agents could be looked to as affecting some unknown and invisible principal; but, certainly, in a bill of pains and penalties, accompanied by a clause of divorce, solicited by the Solicitor for the Treasury, and by the agents of government, it is at least open to us to inquire what means have been resorted to, to procure the testimony. Mr. Powell has stated that the Milan commission suspended its sittings in July, 1819; but we are totally in the dark as to its proceedings, with that single exception, though we have every reason to believe that long before that time it was exercising its functions with great activity. When it was known, then, that such measures were adopted in Italy, by the King of England, to obtain a bill of degradation and divorce against his Queen, it would not be surprising if all that was base and perjured should voluntarily present itself in support of such a proceeding: but when we find, in addition, as we have found, that agents have been going about in all quarters to corrupt, bribe, and invent, is it too much that we should be allowed to prove the acts of those agents?"

The Attorney-General began his reply by complaining

that the counsel on the other side had, as usual, gone out of their way to attack individuals not before the House. They had animadverted especially upon the members of the Milan commission; but he could tell his learned friends, and could assure their lordships, that, whenever the fit time should arrive for inquiring into the conduct of those gentlemen, all their acts would be completely justified; they were most anxious to have their conduct fully investigated, and it would then stand clear before the House and the public that nothing done by them at Milan, or in the progress of the commission, could reflect upon them the slightest discredit. But what had this question to do with the Milan commission? His friends had exhausted their invectives (he begged pardon, their invectives were not exhausted, for Restelli had again been dragged forward) upon the Milan commission; but what had it or Restelli to do with the point, whether the acts of Riganti should be made the subject of inquiry at the bar? All they could prove against Restelli had been proved; and now they wished to go further, and to examine as to the acts of a man named Riganti, assuming that he was an authorized agent of the Milan commissioners—

The Lord-Chancellor here interposed, and said, "I wish to know whether any noble lord thinks that this question can be put. It would be quite wrong to stop the argument if any noble lord entertains a doubt upon the subject, but to me it seems the most extravagant proposition ever urged. Whether the prosecutor is invisible, as one learned gentleman asserts, or so clearly seen that another learned gentleman can point him out as easily as a joint-stock company, I do not know; and whether that is language proper for the occasion is another matter. But whatever the House may think, whether the prosecutor be visible or invisible —whether this proceeding be or be not of a criminal nature—I deliver it as my opinion, without the slightest hesitation, that it is impossible to admit such a question."

The Lord-Chancellor added, that no agency on the part of Riganti had been at all established.

The Earl of Liverpool, as it was very near four o'clock, moved the adjournment.

Mr. Denman said, that before the House adjourned he had an application to make. Restelli had said that Riganti came over with him to England; and it was material to ascertain whether Riganti was still here, so as to be produced at the bar, if necessary.

The Solicitor-General apprehended that the learned gentleman had no right to interfere with the conduct of the case in favor of the bill, nor to dictate to the House who should or should not be witnesses. Whether Riganti would be called must be left to others to determine.

Mr. Denman denied that he wished to interfere or to dictate. What he submitted was, that as Riganti was proved to have acted as an agent under the Milan commissioners—

The Attorney-General.—That is not proved.

The Solicitor-General.—All that appears in the notes respecting this man is, that he communicated a message to Restelli, and that Restelli, in consequence, went to the advocate Vilmarcati.

The Lord-Chancellor.—If Riganti is in this country, it is in the discretion of those who oppose the bill to determine whether they will call him or not as their witness: they may have many weighty and justifying reasons for not doing it. It is certainly competent to the House, if it sees on the minutes the name of any man who it thinks can throw light on the subject, to determine whether it will or will not call him, and in what stage.

Mr. Denman.—It may be very material for the counsel for the Queen to decide whether they will or will not call Riganti, and for this purpose I wish simply to know whether he is in this country?

The Lord-Chancellor.—If you do me the honor to address me, Mr. Denman, I can only say that I am sure I do not know; but whether anybody else is acquainted with the fact, I cannot tell.

The House then adjourned.

OCTOBER 16.

After the usual forms, *Earl Grey* said he understood that Sir J. Beresford was in attendance to give evidence respecting the service of Wm. Carrington, and proposed that he should now be called in and examined.

The Earl of Liverpool had no objection to that course being taken, if the counsel on both sides consented.

The Attorney-General and *Mr. Brougham* signified their concurrence in the proposed arrangement, when

Sir John Poer Beresford, Bart., was called in, and having been sworn, was examined by the Lords.

Earl Grey.—Are you an admiral in his Majesty's service?—A rear-admiral.

Did you, during the late war, command his Majesty's ship Poictiers?—I did.

Do you remember a person of the name of William Carrington serving on board that ship?—I do.

In what character did he so serve?—As quarter-master.

Was he never otherwise rated than as quarter-master of that ship?—Not while I commanded her.

Did he leave the Poictiers during the time you commanded her?—He left the Poictiers during the time there was an acting captain on board. Perhaps if I were to tell your lordships the circumstances, it would prevent a good deal of delay: at the request of Sir William Gell I procured the man's discharge from the Poictiers, by writing to Captain Jones, my acting captain, to beg he would rate him as my clerk, in order to get him his discharge, and he was discharged by Captain Jones rating him as a midshipman; as I fancy there was no vacancy for a clerk, he was rated a midshipman in order to get him his discharge.

You understood him to be rated as a midshipman previous to his discharge?—I did not: I never knew he was rated midshipman.

You were understood to state, just now, that Captain Jones had rated him as midshipman previous to his dis-

charge?—I understood he was rated midshipman after he was discharged, in order to get his pay.

In point of fact he was rated midshipman before he was discharged?—Yes, the ship's books will best tell that.

Was it at Sir William Gell's request, and not in consequence of any request on his part?—At Sir William Gell's repeated request to me.

Did you give him, at the time of his leaving, a ship certificate of good conduct?—I gave him a certificate of good conduct either before he left the ship or after, I do not know which, but I gave him a certificate.

You gave him a certificate expressing your approbation of his conduct?—Yes, he was a very good man while I commanded the ship, and I gave him a certificate, as I do all good seamen.

Did you consider that there was any thing irregular in his conduct while on board the ship, or any thing irregular in his manner of procuring his discharge?—The first question I should wish to answer first; while he was on board the ship, there never was a man that behaved better: as to the irregularity of his discharge, if there was anything irregular in it, which I believe there was, it was my fault, and not the acting captain's; I had it done in order to oblige Sir William Gell.

There was no fault of William Carrington?—No fault of William Carrington whatever; he was a very excellent man.

Lord Melville.—Are their lordships to understand from you, that William Carrington, in point of fact, never was a midshipman of the Poictiers, while you commanded that ship?—Never.

He never did the duty as a midshipman?—Never.

Do you recollect any conversation with Carrington, as to his being rated as a midshipman, or brought forward in the service as an officer?—Never.

Do you recollect his complaining to you, that he did not like the sea, and that he wished to get his discharge on that account?—I will state the proceeding before he said he did not like the sea.

Sir J. Beresford.—I wish your lordships would indulge me with explaining, by relating the proceeding

by which he got his discharge; and I understood he did not like the sea.

Lord Melville.—Did he ever state to you, that he wished to be discharged from his Majesty's service, because he did not like the sea?

Sir J. Beresford.—I wish you would permit me to state the whole transaction.

Mr. Brougham.—As their lordships only wanted the truth, there could, he supposed, be no objection to the witness making the explanation he proposed.

Sir J. Beresford.—Sir William Gell asked me to do him the favor of sanctioning this man's discharge; I called Carrington, and said, "Carrington, what, do you wish to leave the service? I hope to God you will not leave the service;" he said he was very anxious to leave the service, he was pressed into it, and did not like the sea. I think those were his words, as nearly as I can be upon my oath. I was surprised when this discharge was asked for.

Do you recollect any correspondence with the Admiralty on the subject of his discharge?—I never had a correspondence with the admiralty on the subject, and I did not know there was any correspondence with the Admiralty on the subject; if I had I would not have given him his discharge. I could not fly in the face of the Admiralty; because I think it was an improper thing Captain Jones discharging him at my request; if there is any blame for discharging him, I hope it will be attached to me.

The Earl of Lauderdale.—Was there any engagement that Carrington should be rated as a midshipman, or any understanding on that subject, at the time he came on board your ship?—No, he was drafted I believe on board the Poictiers from another ship; I had never seen him till then.

Was there any engagement during the time of his service as a quarter-master, that he should be made a midshipman when he was serving in your ship?—Not by me, there was no engagement.

I shall not ask you what the acting captain did; but did it come to your knowledge that any engagement for

his becoming a midshipman was made by the acting captain?

Mr. Brougham.—That would not be evidence.

The Lord-Chancellor.—Did William Carrington leave the service in the year 1811?—Yes, he did.

Had he, or had he not, been a midshipman for twelve months before he left the service?—No; he had never been a midshipman before he left the service, to my knowledge.

Did he ever decline the appointment of midshipman?—I never offered it to him.

Do you know whether he did or did not receive midshipman's pay for a twelvemonth?—The ship's books can best tell that; but I should say no; the ship's books are always regularly kept, and can be referred to.

The Duke of Clarence, with all submission to the noble and learned lord, thought that the question was improper.

The Lord-Chancellor.—If the question was improper, he ought not to have put it; but the answer certainly was not evidence, because it stated that the fact would be seen by the ship's books. Her books were therefore the proper evidence.

The Earl of Lauderdale.—Do you remember desiring Carrington to go down to the Thisbe, and ask for his papers?—I do not remember that, it is ten years ago since this occurred; but I got him put on the Thisbe's books, in order to get his pay for him; therefore I think it is probable it was so, but I cannot charge my memory with it exactly; the Thisbe was the flag-ship in the river.

At what time did you get him put upon the books of the Thisbe?—He was discharged from the Poictiers into the Thisbe, in order for him to get his pay; I think it was about June or July 1811; I was on shore at the time.

You are certain that you never gave Carrington any reason to expect promotion as a midshipman during the time he served as a quarter-master?—Not while I was in the ship.

Did Carrington ever state to you any difficulty, in point of expense, of dressing himself, and maintaining himself as a midshipman?—No; if he had I should have

maintained him, as I did others in the service, till he could pay me again.

Mr. Brougham observed, that it was true the witness (Carrington) had stated, in p. 584 (*Ch. p.* 236,) that he was a midshipman ; but if their lordships referred to p. 591, (*Ch. p.* 241,) they would find his explanation of that statement. His examination was as follows :

"Were you rated a midshipman on board the Poictiers ?—I was.

"How long ?—I do not rightly know how long.—I suppose during the time I was there."

He was then asked—

"Do you mean that you entered as a youngster to learn your duty, or did you go upon the quarter-deck of that ship as a positively effective midshipman ?—I was not a very youngster ; I did not go upon the quarter-deck for some time ; but I understood I was to be a midshipman.

"Are you positively sure that from the time you joined the Poictiers you were rated midshipman ?—I am not certain whether I was rated at the time or not ; I was rated at the time I left."

From this it will be seen that Carrington had fully explained his former statement.

The Earl of Liverpool.—Did Carrington understand that he was rated a midshipman before Sir John Beresford left the ship ?

This question was objected to, and another was put.

Did you so act towards Carrington, or Carrington towards you, that Carrington could have been led to think he was a midshipman ?

Mr. Brougham had no objection to this question except that it was no evidence. He should be glad to know what part of Carrington's examination had any foundation for such a question. It was, if he rightly understood his lordship, whether Carrington was ever led to understand that he was to be a midshipman. Now Carrington had stated that he did not know how long he had been rated a midshipman.

The Lord-Chancellor.—He had in his evidence twice said he was a midshipman ; and though he had finally sworn what Mr. Brougham had stated, the whole of

his evidence must be looked at together when the effect was to be considered.

The Lord-Chancellor.—Did Carrington, while he was on board the Poictiers, ever act as a midshipman ?—He never did. I should wish, in justice to Carrington, to answer the question, whether he was ever led to believe that he was hereafter to be a midshipman ; he never was led to expect that from me. I am about to give my opinion—perhaps it is not evidence. (Cries of Order, order.)

Mr. Brougham begged that the witness might not be interrupted in his answer.

Earl Grey.—As the question related to a matter of opinion, the answer would be evidence. Sir John Beresford was merely desired to say whether he understood that Carrington had been led to expect that he would be a midshipman.

Mr. Brougham said, the purport of the question was whether Carrington had reason to understand that he was to be made a midshipman. Sir John Beresford had stated, not from him, but that he had from another. (Cries of No, no.) He was stating what he understood the witness was about to depose.

Earl Grey reminded their lordships that Sir John Beresford had said that he had something to add, which in justice to Carrington, he was desirous of stating.

The Lord-Chancellor apprehended that, if what Sir John Beresford says be not evidence, it could not be allowed to stand on the minutes, nor to remain on their lordships' minds. It is not because Sir John Beresford says that what he was about to state is not evidence that we are to conclude it is not. If Sir John were on a naval court martial, he would tell me that that was evidence which I conceived could not be received as such ; and I hope I do not undervalue Sir John Beresford's judgment when I say that he may be mistaken as to what is or is not evidence here.

(The witness resumed.)—I understand the noble lord's question to be, Have you any reason to believe that he was led to expect that from anybody else ? my answer was going to be, that the first lieutenant had so good an opinion of that man, I do not know what he

might have held out to the man while I was absent; bnt I never held it out myself. I refer to Lieutenant Alcock, now Captain Alcock; I do not know that Lieutenant Alcock did.

The Earl of Lauderdale.—Did you ever tell Carrington that he was to be on the quarter-deck; and do you recollect Carrington replying, that he did not wish to be on the quarter-deck, for he had no friends or money to support him on the quarter-deck?—He never told me any such thing; and after I knew he was to be Sir William Gell's servant, it was very unlikely I should propose to him to be an officer in the service.

This never passed before you knew he was to be Sir William Gell's servant?—Never.

Carrington having informed this House that he did not go upon the quarter-deck for some time after he joined the Poictiers, was he ever on the quarter-deck of the Poictiers?—He never was on the quarter-deck, except when his duty as quarter-master led him there.

Earl Grey.—Did William Carrington apply to you at any time after he had left the Poictiers, respecting his pay?—He did.

Do you recollect what passed between you and him upon that subject?—I think it was four or five years afterwards; I met him in the street, or he waited upon me; he said I have not got my pay, captain; I said, I will get it for you; and I was the means of its being procured.

Did you give him a letter to a gentleman at Somerset House for that purpose?—I either gave him a letter, or went to Somerset House myself, I do not recollect which, but I know I got him his pay.

Do you remember, at any time previous to his discharge from the Poictiers, having any conversation with him respecting his wish to leave the service?—Yes, I remember rather reproaching him for quitting the service, and saying, "I was quite astonished he had quitted the service, particularly as he was so comfortably situated on board the ship;" I was displeased with his quitting the service; I did it to oblige Sir William Gell; I did not like so good a man quitting the service; and the reason he gave me was, that he was pressed into the

service, that he never liked the sea, and was anxious to quit it.

The question related to any time previous to his quitting the Poictiers?—The answers he gave previously and afterwards were exactly the same.

There was nothing passed relative to his inability to support the expense of being on the quarter-deck?—Nothing.

Lord Colville.—Do you know that Carrington, whilst doing duty under your command on board the Poictiers, knew what his rating on the ship's books actually was at the time?

Mr. Brougham humbly submitted that, for this witness to be called on to depose what he knew of what the other witness knew, was not evidence, unless he was asked as to some fact which brought Carrington's knowledge within the witness's knowledge.

Lord Colville said, that he had put the question in consequence of Carrington's own evidence that he believed himself to have been rated as a midshipman on board the Poictiers, while under the command of Sir J. Beresford. He had, therefore, good reason to ask whether Carrington must not have been aware of his own rating; he thought he must have been. No man had a greater respect for the high legal talent of the counsel at the bar than himself, but he did hope that their lordships would not be of the same opinion with that learned gentleman. The learned counsel was not justified in saying the question was a droll one.

The Lord-Chancellor said, that it was not for their lordships to discourage any objections which might be urged by the counsel for the Queen upon legal grounds. At the same time he thought that the proper question to introduce the one which had been propounded would be "whether the witness knew whether Carrington did or did not know how he was rated."

Lord Colville.—Do you know, from any fact or circumstance within your own knowledge, that Carrington did know how he was rated?—Every man and officer in the ship knew how they were rated, to the best of my knowledge and belief; I never hid the rating from any of them; but with six hundred people in the ship it is

impossible I can recollect the rating of every man ten years ago; but I believe he knew it.

Are you certain that Carrington did not know he was rated quarter-master?—I should think he knew it, as he always did his duty as quarter-master; but he and I never had any conversation upon that subject.

Lord Combermere.—Do you know whether Carrington ever messed with the midshipmen?—He never did.

The Earl of Winchelsea.—Was the pay which you state you obtained for Carrington some time after he was discharged, either by personal application at Somerset House, or by letter, the pay of a midshipman, or the pay of a quarter-master?—I believe both; the pay of the midshipman's part of it could only have been a few days, because he was discharged into a ship to get his pay as a midshipman; therefore for those two or three days he must have been paid; but the Navy-office books can best state this.

The Lord Chancellor.—According to the course and practice of the naval service, is not every man rated according to the duty he does on board the ship?—Generally speaking.

The Duke of Clarence.—During the continuance of William Carrington on board the Poictiers, was he on any occasion particularly recommended to your notice by the first lieutenant?—Not that I know of; but he was a very great favorite of the first lieutenant's, being a very good man, and the first lieutenant was very loth to part with him.

Where was the Poictiers employed during the twelve months that he was on board that ship?—The first part of her service we commanded at the blockade at Brest, then at Lisbon, then in the North Seas.

Did Carrington come on board with a draft of men, or was he received on board on the ship's being first commissioned?—As far as my memory charges me, with a draft of men from the Majestic; I think there were six or eight of them.

During the continuance of Carrington on board the Poictiers, was the ship in course of payment?—I cannot say positively, but I think she was.

The ship's books will prove the fact?—Of course.

Earl Grey.—What was the name of you first lieutenant?—Lieutent Alcock, now a captain.

Where does he live?—Near Carmarthen, in South Wales, and a most able and excellent man he is.

Earl Grey.—Do you know where Captain Jones, who was the acting captain at the time of his discharge, is?—I do not, but I know Captain Alcock's residence from being in the habit of corresponding with him; I had a letter from him about two months ago.

The Lord Chancellor suggested that it would be well for some person, authorized by their lordships, to make a copy of those parts of the ships' books which had been adverted to.

Mr. Brougham said he only wished to ascertain whether the proposition extended to the production of documentary as well as parole evidence; was it meant to receive documentary evidence?

The Lord-Chancellor.—Their lordships will decide on that point, and your objections, Mr. Brougham, shall be then heard, if you have any.

Mr. Brougham was anxious to know their intention.

Mr. Brougham trusted, in reference to the examination of Pomi on Saturday, that their lordships would allow him to state, that notwithstanding their lordships had appeared to be of opinion that they (the Queen's counsel) could not cross-examine him as to the bribe attempted to be given to him by one Riganti, if he would submit to be the agent of Vilmarcati, one of the Milan commission, although their lordships at the time seemed to object to the question intended to be propounded, her Majesty's counsel did not wave it altogether, but reserved it to a future time, in case they should be afterwards able to show other acts of the same kind; and in case (which he trusted that, for the sake of substantial justice and legal form, they would be successful in doing) they should be able to arrive at that necessary and indispensable fact, of who the party was, the real party, who was the prosecutor in this case; without which information, looking at the peculiar situation in which her Majesty stood, it did appear to him (Mr. Brougham) that it was morally and absolutely impossible for them to pursue any steps towards that

pure and substantial justice which ought to be the object of every judicial proceeding.

The Lord-Chancellor said the witness (Pomi) had now been examined in chief, and also cross-examined. Whatever application might be afterwards made for permission to re-examine upon any point, the House must of course consider, and would be the best judges of.

Counsel were re-admitted, and *Filippo Pomi* was again called in, and cross-examined by the *Attorney-General*, through the interpretation of the *Marches di Spineto.*

You have stated that you resided in a house at the Barona ; is that house now called the Villa Bergami ?—Yes, at present it is called the Villa Bergami.

How long has it been so called ?—A little time ago.

How long ago ?—After that Monfrini sold it, about three months ago.

Do you mean to swear that it was not called the Villa Bergami until three months ago from this time ?—It was so called, even before then ; Monfrini bought it, and after Monfrini sold it, it was called again the Villa Bergami ; we always called it La Barona, and we then began to call it Villa Bergami, after that Bergami had bought it.

How long ago is it since you first called it the Villa Bergami ?—He bought it in the year 1816.

After Bergami purchased it, did you continue to work there as a carpenter for Bergami ?—I did.

Had you continued to work for Bergami at the villa down to the time of your leaving Italy ?—When he was the master I worked for him ; when other people have been the masters, I have worked for the other people.

When did you last see Bergami ?—This I do not quite recollect ; it must have been in the month of August, I believe.

Where did you see him ?—At his house.

Did you see him any where else ?—I have seen him in no other place, for I never went out of the house.

Did you see him the day you left the Villa Bergami ?—I did not.

How long before did you see him ?—I left the Villa Bergami on the 20th of September ; I had seen him in

August, but I do not know the day, I cannot mention the day.

Will you swear you did not see him in the month of September?—I cannot swear, it must have been the latter end of August, or the beginning of September; I cannot swear, I have not made a memorandum, and I cannot tell.

How long before you left the Villa Bergami was it that you saw Bergami, upon your oath?—I left on the 20th of September, and I cannot tell whether it was the latter end of August, or the beginning of September, I do not know.

How many days before you left the Villa Bergami did you see him?—I do not know how many days.

Was it a week?—More than a week.

Was not Bergami living at the Villa Bergami at the time you left it?—No, he had set out, he had gone away, and I do not know when he went away.

Who desired you to come over here as a witness?—No one; my own will.

Do you mean to swear, that you came voluntarily, without any application having been made to you for that purpose?—I came here by my own will, because I heard that the Advocate Codazzi was receiving witnesses, and I went to say that I had to say something in favor of that lady, who had done a great deal of good.

A doubt being suggested, whether this was the full import of the answer, the following question was put:

Did you say, that she had done a great deal of good, or that she had done you a great deal of good?—To me, and to all the people at the Barona; she has done me a great deal of good, and a great deal of good to all the people in general.

Do you mean to swear, that you went to Codazzi of your own accord, and that no application was made before that time to go to Codazzi?—Yes, I swear that before any tribunal.

Did anybody apply to you to go to Codazzi before you went there?—No; I heard that Codazzi received depositions in favor of this lady, and I went to Codazzi willingly.

When was it you went to Codazzi?—It was on the 24th day of August.

Was Bergami then at the Villa Bergami?—He was not.

Was Bergami at Milan?

Mr. Denman.—How can he know when he says he did not see him?

The Attorney-General replied, that he might have seen him when he went to Milan.

Mr. Denman.—What! seen him at the Barona?

The Attorney-General.—No, but at Milan.

Do you know whether Bergami was at Milan at the time you went to Codazzi?—As far as I know, he was not there.

Did any person desire you to come here from Italy to be a witness?—There has been this Codazzi, who told me so and so, who told me this and this; if you have any deposition to make, you may go, because your deposition is good.

Were you examined by Codazzi?—Yes.

Was anybody else present when you were examined?—No.

Codazzi having said to you that you might go, did you in consequence of that come here of your own accord?—Yes, because I told him, that if it had been a business which required me to go a hundred miles I would go willingly, because I would go (*volontariamente.*)

The interpreters being asked whether the whole of the answer of the witness had been given, they concurred in stating that the whole had been given.

After you were examined by Codazzi, and before you set out from Italy, did you see any other person on the subject of your coming over here as a witness?—Yes, I had seen another English advocate at Milan.

When?—The day after I saw Codazzi.

Who was with the English advocate when you saw him?—I have been in his house, and I have seen only him; I went there by my own accord, as I did in regard to the advocate.

Did you see any other person besides the English advocate upon the subject of your coming here after you had seen Codazzi?—Not at that time.

At any time?—When he came one day to the

Barona I saw him, the Advocate Codazzi, and another person.

Who was that other person?—I do not know that person.

Was he an Englishman or an Italian?—I believe he was a foreigner; I believe he was an Englishman; for I did not speak to him, I merely took him up-stairs to show the house.

Do you know Vassali?—I do.

Did you see Vassali at any time before you set out from Italy?—Yes, I saw him.

When was it you saw him; how long before you set out from Italy?—It was in the month of August, but I do not know when: I have not present the day.

Was it before or after you went to Codazzi?—It was after.

Did you come over to England by yourself, or in company with other persons?—I came over in company with the head master, Giarolini, and three other persons.

Where was it you saw Vassali; was it at the Villa Bergami, or at Milan?—I saw him at Milan.

Where?—Near to his house; I saw him when he was getting into the carriage.

Did you call at his house?—No, I have never been at his house.

Was that the only time you saw Vassali?—I had seen him many times; I had seen him in the year 1817, and the year 1818.

Besides that time at Milan, have you seen him on any other occasion, on the subject of your coming here as a witness?—I have seen him here; I do not know in what place; in this country, in London.

Did you pay your own expenses in coming here, as you state that you came voluntarily?—I did not.

Who paid them?—The head master paid all the expenses, for he paid for all.

Is Giarolini your head master, or who is your master?—Giarolini.

Is he your master when you live at the Villa Bergami?—He is.

What are you to be paid for coming here as a witness?

—Here it is; when I went to the Advocate Codazzi, I told him, that if it was to be an affair of a little time, I had no objection to go; and I told him that even if I was to go for a hundred miles, I would go without any interest.

What are you to be paid for coming here?—As to the pay, I cannot tell, because when I told to the advocate I told him that, provided they gave something to my family, I for that lady (her Royal Highness) would go to the end of the world.

Do you mean to say, that you do not expect to be paid any thing for coming here, for your loss of time?—Hear me: if they will take care of my family I would have no expectation in regard to myself, provided they took care of my family; and I would go to any place.

What were they to give your family?—The sum is that they give a livre to my wife, and half a livre for each of my children, daughters.

Do you mean a livre a day?—Yes.

Do you swear that that is all you are to receive, or expect to receive for coming here?—This is for the assistance of my family; as to the rest, to myself, if they will give me something, I will take it; if they do not give it to me, I have no claim, I do not expect it.

Will you swear you have made no agreement with any person for your own remuneration for coming here?—Yes, this I can swear to, because I have made no agreement whatever; but as there are some people who have some claims, so I can have also some claims.

Then you are to be understood to say you have some hopes of being remunerated for coming here?—I have told you I have no hope, for, for that lady (Her Royal Highness), on account of the benefits that she has done me, I would go to the end the world.

You stated, when you were here last, that when Restelli came to the Villa Bergami, he came together with the son of the head master; what is the name of that person, the son of the head master, who came with Restelli to the Villa Bergami?—Antonio.

Antonio Giarolini?—Yes.

Is not Antonio Giarolini an architect, as his father is?—He is more clever than his father.

Did not young Giarolini upon that occasion, take a plan of the house?—Yes, they made a little drawing or design.

Did not young Giarolini upon that occasion make the drawing or plan?—Yes, when Giarolini came to the Barona, with Demont and Restelli and other persons, there was Giarolini up stairs, and they made this drawing or plan.

Did young Giarolini go away with them, after they had made the plan?—No; the others went away in a carriage, and Giarolini and Restelli went out by another door; and when they were there, they began to leap for joy, and to congratulate each other.

You say you have lived at the Barona for so many years; do you remember when her Royal Highness was there with Bergami, any dances being given at the Villa Bergami?—Yes, I remember them.

Do you know a person of the name of Antongina?—He was the tenant of the parish, of the whole place.

What is the extent of the Villa Bergami and the land belonging to it?—I do not know exactly.

The question is not precisely, but about what extent?—It is an estate of a thousand pertica, all this house is about half a pertica.

How many acres?—How am I to know that; I cannot know it.

You have stated you know the person Antongina; has not he a great many daughters?—He has eighteen children, between males and females.

Did his daughters use to be present at those balls?—They came one evening, when her Royal Highness had expressed a wish to see all that family coming from one father and one mother.

What other persons used to be present at those balls, do you know?—They were all people well brought up from their father, well brought up from their mother, well brought up; and when they were there, the father always was present for the good order.

The question does not refer to Antongina; but were there not many persons from the neighborhood, of a low situation in life?—There were other girls, but they were all well brought up people.

The question is, in what situation of life were they, not whether they were well or ill brought up?—All gentlefolks.

Both male and female?—Yes; this Antongina, we should call him a gentleman, and the others that came were all gentlefolks.

Do you know a person of the name of Maria Galletti? —Perhaps she may have come there.

Who is Maria Galletti?—I do not know her positively.

Does not she keep the public house called the St. Christopher?—You must have mistaken the name; it is not Maria Galletti.

What is the name of the landlady of the St. Christopher?—Rosina.

How long has she lived there?—She has been landlady a long time.

Has she not been at those balls?—Yes, she came, but because she had been brought by those other girls; but she is a respectable woman, she is not a prostitute, (*Trappola.*)

Is she one of those persons whom you describe as the gentlefolks who used to frequent those balls?—Yes, she came, and came only once, this Rosina.

Is she one of the persons that you describe as gentlefolks, who came to the ball?—She was the mother of another girl who was used to go there; she was the mistress of this inn, called the St. Christopher.

Is there another inn at the Barona, besides the St. Christopher?—There is.

Who keeps that?—Bergami is the master.

Who keeps the house, who conducts it?—The innkeeper is there.

What is his name?—Giovanni Angelo Donnarini; it is now the son, but before it was the father, and he was called Antonio.

Did his wife and her sister use to go to those balls?—They came only once.

What is the wife's sister?—She has no sisters; Donnarini has married a woman who has no sisters, who was an only daughter.

Do you know a person of the name of Battista, who

lives at the Barona, a blacksmith?—No, there is no Battista.

What is the blacksmith's name at the Barona?—Antonio Manni.

Were he and his family at those balls at any time?—No; first of all he has no daughters, and he has only three sons.

Was he at the balls, or either of his sons?—No, I never saw any of them.

You have stated that you are a carpenter; do you remember at any time having occasion to do any work to a door up stairs at the Barona?—Yes, to work; I have made all the doors, I have even worked at the house of the tenant.

Do you remember, upon one occasion, your going up stairs to mend a door at the Barona?—How am I to remember that? I went up stairs a hundred times, now to mend one thing, then to mend another.

Do you remember when you were mending a door up stairs seeing her Royal Highness anywhere?—No, in that time I have not seen her; I have seen her down stairs in the hall; up stairs, I have seen her in other places, but when I was mending a door I never saw her.

Did you ever see the Princess in any room up stairs?—I have seen her in her own room.

Was it at the time you were mending a door that you saw the Princess in her own room?—No, it was when I carried up stairs a chest of drawers, which had been put out of order.

Where was it you saw the Princess upon that occasion?—In her own room, when I was carrying that thing up-stairs.

Was Bergami with her?—No, I have not seen him.

Did you not see Bergami any where upon that occasion?—No.

Will you swear you did not see Bergami upon that occasion, in the Princess's bed-room?—Yes, I can swear before God for this.

Did you at any other time see Bergami in the Princess's bed-room?—I never saw him there, never.

Have you never stated that you saw him and the

Princess in her bed-room ?—How can I tell such a thing when I never saw him.

You are not asked whether you ever saw it, but whether you ever stated that you had seen the Princess and Bergami in a bed-room together ?—I have told you that I know nothing at all of this affair.

Will you swear you have never said that you saw the Princess and Bergami together in her bed-room ?—Yes, I can swear even before God, that I never saw them in her own room.

You are not asked whether you ever saw them, but whether you have ever said that you saw them ?—I have said nothing of this business before ; it was not me who went up stairs, for I have always had four or five men under me to work.

Have you not said that you did go up stairs on one occasion with a chest of drawers ?—I have said that I went once up stairs in her room, to mend this chest of drawers, because the drawers wanted mending.

Upon that occasion was it that you saw the Princess in her bed-room ?—Yes.

Have you never said that upon that, or some other occasion, you saw the Princess and Bergami together in her bed-room ?—How many times must I say the same thing ; I have said, that I can swear that I never saw Bergami in the room of the Princess, in the bed-room of the Princess.

You are not asked whether you saw the Princess and Bergami, but whether you ever said you had seen the Princess and Bergami together in the bed-room ?—I never said, nor have I seen it.

Do you know the wife of the Baron Bergami ?—I do.

Have you ever seen her at the Villa Bergami ?—Yes, before I set out she was there.

Before you set out for England ?—Yes.

Did you see the little Victorine at the Villa Bergami when you saw the wife there ?—No, the little Victorine was not at home ; she was at school.

Where was she at school, do you know ?—I do not know the place.

You said, that many gentlefolks went to the ball of the Villa Bergami ; state the names of any of the gentle-

folks whom you have seen there?—I cannot mention them.

Can you mention any of the ladies?—I might mention Marianna Donnarini, I might mention Giuseppa Donnarini; and there may be other persons who, if they were before my eyes, I might recollect their names.

Who is Marianna Donnarini, and where does she live?—At the Barona.

Who is she; is she a lady living upon her fortune?—A girl well brought up, and the flower of gentlefolks.

Is she not the daughter of the man who keeps one of the inns at the Barona?—Yes, she is the daughter of Antonio.

Examined by the Lords.

Earl Grey.—Was any proposition made to you to give evidence against the Queen, and by whom?—No.

Did no person speak to you upon the subject of giving evidence against the Queen?—There is Restelli, as I mentioned the other day.

Any other person?—There was another person of the name of Riganti, who, when I went to his shop to buy snuff or something of the kind, told me——

The Attorney-General objected to the answer which the interpreter was translating.

Earl Grey conceived the interruption to be irregular. A question had been put, and an answer given; but, while the interpreter was translating it, he was interrupted by the learned gentleman. He thought it was the duty of the House and of the learned gentleman to hear the answer, and if it were then deemed illegal, it could be struck out.

The shorthand-writer read the question and the portion of the answer that had been given.

The Attorney-General would, for his own justification, call the recollection of their lordships to page 97 of the minutes, (*Chap.* 99,) where the same thing was done by his learned friend Mr. Denman, with respect to one of the witnesses for the bill. His learned friend had interrupted the witness in his answer when he came to the words "I imagine," observing that the witness's "imagination" could not be received in evidence. The ob-

jection was held to be a good one, and the rest of the answer was not taken down. The Lord-Chancellor stated, on that occasion, that the witness might be allowed to give so much of his answer as could be legally heard; but that, when he was about to state his "imagination" of any thing, it was proper to interrupt him. His objection was of the same description. That which the witness had stated, as to Riganti's having applied to him to give evidence, might be received as evidence; but he contended that any conversation between him and Raganti on that occasion could not be given in evidence. He knew that it could be afterwards struck out; but he opposed it at the moment, conceiving, as he did, that ultimately it could not be received as evidence. He did not object from any fear of the answer that might be given to the question, but because conversation with another person could not be evidence.

The Lord-Chancellor directed the preceding question and answer to be read, which was done.

The Attorney-General.—My objection is, that any evidence between the witness and another person, not a party here, cannot be received.

The Lord-Chancellor.—Mr. Solicitor, do you wish to be heard?

The Solicitor-General said, his objection was founded on what was given in evidence by Restelli on a former occasion. Restelli stated at that time that he had received a message, at the Villa Bergami, from Vimercati, through the means of Riganti. He therefore thought that Riganti was a stranger to this inquiry, and a conversation with him could not be received in evidence here. He understood that he and his learned friends, as counsel at the bar for this bill, were bound to put any objections that might strike them as proper to any particular questions. After having stated those objections, he conceived that their duty was discharged, and he was quite indifferent as to the decision that might ultimately take place.

The Attorney-General.—In the instance he had adverted to, a question was put as to the imagination of the witness, and it was decided that such a question could not stand. He thought the present was not a

legal question, and therefore he had taken the liberty of stating his objection at their lordships' bar.

The Lord-Chancellor apprehended that, if the House had come to a wrong and hasty decision at one time, it was right to ask a question, for the purpose of bringing the subject again under the consideration of their lordships; and he would call on the House to state anew the opinion that was entertained on the question. He was now, in the first place, about to do that which was usual, namely, to call on the counsel in support of the question to argue its propriety if they thought it necessary.

Mr. Brougham said, he was perfectly satisfied to leave the objection made by his learned friends (and which he considered to be a most unfounded one) to the decision of their lordships. He would, however, briefly state his view of the subject. The propriety of the question rested, in a considerable degree, on that part of the evidence of Restelli which was to be found in p. 410. (*Ch. p.* 439.) That evidence he had before adverted to, and, as it disclosed a particular species of information, he gave their lordships' notice, in the beginning of the case for the defence, that it had better be discussed afterwards. He now submitted to their lordships, that, in the present state of the case, sufficient matter was contained in p. 410, (*Ch. p.* 439,) to authorize them to allow this question to be asked. It there appeared, from the evidence of the agent, Restelli, (a man whose agency was not now denied,) that Riganti came to him, desiring him to go to the advocate Vilmarcati, a known and avowed agent of the commission. Restelli said he did go to the advocate the day after Riganti came to him, in consequence of Riganti's so calling. What did the advocate do, after Restelli had been apprized, through the agency of Riganti, that he wished to see him? He examined Restelli. It was demanded of Restelli—"Did the advocate ask you any questions?" He answered that he did. "How soon after did you go before the Milan commissioners?—A day or two after, I believe. Did you tell the same story as you have told to their lordships on this day?—I did. Was your deposition taken in writing?—It was. Who were present?—

Three English gentlemen, and two Italian amanuenses." This, then, fixed Riganti as the agent of the Milan commission. It was proved in this way:—Riganti went to Restelli, not merely as a messenger, but as an agent, because he asked Restelli tc go before the advocate Vimercati, which he did: he was by him examined; and he afterwards went before the commissioners. The very day after the communication was made by Riganti, Restelli went to the advocate Vimercati, and the day following he went before the Milan commission. Now this he would maintain to be a sufficient proof of agency on the part of Riganti—a sufficient proof that he was acting on behalf of the Milan commission—to let in the question proposed to their lordships. With great submission he would call their lordships' attention to the absolute necessity which existed for opening the door to such a question as this. If he could be able to prove that witness after witness had been applied to by agent after agent, by saying "If you will come and swear certain facts against the Princess of Wales, you shall have so much reward"—if he could prove that an offer was made to this witness in these terms—"If you will say that you saw Bergami put his hands up the Princess's petticoats, you shall have such a reward"—if he could show that, with respect to other transactions, recourse was had to the same means, that individuals were offered rewards if they would swear to those falsehoods—to charges they had never heard of, until they heard them from the mouths of those panders of infamous evidence—if he could prove this, though he might not precisely connect each of those panders with his employers—the Milan commissioners!—if he could substantiate matter so important, he would assume, placed, as their lordships were, in a most extraordinary situation, as a house of legislature, with a bill of pains and penalties before them, that no man could deny but it would have very great influence in enabling them to form an opinion whether the bill should pass or not. Was there a noble lord sitting on the bill whose opinion would not be most materially affected by the last question?—nay, he would say, whose mind must not be decided to throw out the bill, if a system of going about to bribe witnesses tc

tell those odious falsehoods against her Majesty the Queen should be made out by legal evidence, although it was not strictly made out to be the act of the Milan commissioners, or of his Majesty's ministers, who were his opponents now, and who were to be his judges hereafter? Could the Earl of Liverpool, or the Earl of Harrowby, and the other advocates of the bill, whom he only mentioned by name because they were his opponents—could they, or could any man, say that it was not important that those panders for false, foul, and filthy evidence, should be exposed? They might be told, that the Milan commission was not now sitting. That was true; but Col. Brown was there, and who could tell what he was doing? Would not the evidence with respect to the persons employed to procure evidence, and executing their task in so base a way—would it not have a powerful effect in inducing their lordships not to pass the bill? It must, for an obvious reason, have that effect; for it was clear that those people had been going about offering to bribe witnesses with money of others, not with their own. Did Riganti go about offering his own money? Certainly not. What reason had *he* to wish that witnesses should swear against the Princess? He had none; and if so, he must have been offering the money of others to obtain evidence. What then must be the conclusion if they saw him employed in that manner? The evidence given by several of the witnesses, was, *in pari materia*, in a similar tone, involving the same fact, and showing how the thing had been got up. It proved that a conspiracy existed, and against whom — namely, the Queen, though it did not show *by* whom it was supported and encouraged. In short, the question now about to be decided was of the utmost importance to this case. They, her Majesty's counsel, charged a conspiracy against the Queen; and if they showed this by the agency of particular persons, although, they could not bring it home to the noble lords who were the adversaries of the Queen, and who were also set up as her judges in this case, still he could not but think that it would influence the opinion of every man in that House and out of that House as to the propriety of passing the

bill; and, therefore, he conceived it was fit matter for examination.

Dr. Lushington requested leave to say a few words in support of the question that had been put. It would not have been asked if it had not been for what occurred on Saturday evening last; and looking at the manner in which the question was then disposed of, and what had just happened, he was in doubt whether he had not entirely mistaken the rules of evidence on this occasion. He did not mean to contend that this man, Riganti, was a general agent of the Milan commission, but that he was employed as an agent for particular purposes—that he was employed to procure witnesses for the support of those charges—and he conceived their lordships ought to hear any evidence that could be produced on this occasion with respect to any illegal means that might have been resorted to for bringing forward witnesses in support of the bill. Now the question that had been put, as it appeared to him, came strictly within the rule that had been laid down, because it went to procure for their lordships' information, an account of the manner in which Riganti conducted himself when obeying the orders of the Milan commission; and if it turned out that, in obeying those orders, he attempted by sums of money—by bribery and corruption—to procure witnesses, then, on every principle of justice, those acts should be detailed by evidence before their lordships. What would be said if such evidence were not allowed to be given? It would be said that the interests of justice were entirely defeated. The Milan commission employed Riganti to go and collect witnesses, and he did so by bribery and corruption, by every bad and objectionable means. The consequence was, that witnesses were brought to their lordships' bar to perjure themselves. Would their lordships decide on such evidence? Was it not proved, by a particular witness, that he was offered a bribe? Did not their lordships see, that, in those countries where the witnesses lived, bribes were to be had, and fortunes to be made, provided individuals went before the Milan commission, and gave evidence against her Majesty? Not to hear witnesses examined on these points struck at the fountain of justice, and

overturned the rules of evidence. When those persons went before the commission they gave their depositions, and they were sworn to those depositions before that commission; though on what authority they were so sworn, he protested he did not know. He knew not by what power it was that a commission could be sent forth from this country to act under a foreign government, and having at the same time authority to administer oaths to witnesses, for the purpose of afterwards bringing them to England. When they came here with their depositions—when they were brought to the bar of that House—could it be doubted whether or not their lordships should take these circumstances into their serious consideration? Could it be said that the government who brought forward this bill were not responsible for every act of the Milan commission, and for every act done by every subordinate of that commission? Could it be seriously said that they would not receive the evidence on the points he had adverted to? And why? Because it was not deemed admissible evidence. But how stood the fact? The Milan commission gave Riganti power to act in their behalf: it was in evidence that he was employed to procure witnesses, and they adopted his acts by examining the witnesses he brought. Therefore he hoped their lordships would be of opinion that it was absolutely essential to the attainment of justice, that this evidence should be received, in order that the circumstances might be probed to the utmost; and then, he trusted, her Majesty's counsel would be able to show their lordships, that, throughout the whole of the scene where those criminal acts were stated to have taken place, there had been agents, almost without number, traveling through those countries, seeking out persons whom they supposed, by possibility, might have some knowledge of transactions relating to the Queen, and offering to them bribes, and seducing individuals, whose situations rendered them most likely to be induced to perjure themselves before the commissioners, and afterwards to come forward to support that perjury here.

The Attorney-General was sure their lordships would

pardon him for offering a short reply to the representations of his learned friends who had just argued this question; and he must confess that he was somewhat astonished at the bold assertions made by those learned gentlemen—assertions which the evidence entirely negatived. He almost doubted whether his learned friend who last addressed their lordships, had made himself acquainted with the evidence; because, if he had, he must have known that the administration of oaths by the Milan commission, so far from being proved by evidence, was absolutely negatived. Restelli stated to their lordships, that no oath was administered to him; and, as far as he (the Attorney-General) recollected, every witness who was asked the question denied the fact. He believed that no oath was administered by the commission to the witnesses at the time they made their depositions.

Dr. Lushington here interrupted the learned gentleman. He would at once refer him to page 227 of the minutes, (*Chap. p. 286*,) where it was stated by Raggazoni, that he was sworn before the commission. The evidence on this point was as follows:

"When you were examined at Milan, was what you said taken down in writing?—It was taken in writing.

"Did you sign it?—I did.

"Were you sworn?—Yes, I took an oath at Milan.

"Who swore you?—The Advocate Vimercati.

"In what form?—He told me, 'Are you ready to swear upon the truth?' and I said, 'Yes, the truth.'

"Were you sworn upon the Gospels, or in what manner?—He told me, 'You are then ready to come and swear to the truth?' I said, 'Yes, I am ready to come and swear to the truth.'

"Were you sworn upon the cross at that time?—Yes, I took the oath upon the cross; I took the cross which I carry about me, and I kissed it myself before Vimercati."

The Attorney-General.—Now, he would contend that the witness was not sworn to his evidence by Vimercati. (This observation gave rise to loud and general expressions of surprise in the House.)

The Lord-Chancellor.—My lords, I do not believe that

there is a learned counsel who would not leave any court in Westminster-hall, if he were treated thus.

The Attorney-General resumed.—He wanted to bring the fact before their lordships, and to call on them to look minutely to the evidence as it stood on the minutes. Restelli denied expressly that he had been sworn. If they examined the evidence of Raggazoni by itself, and, still more, if they examined it in connexion with the evidence of other witnesses, the matter would at once be explained. The question put was, "Are you ready, if required, to swear to the truth of this deposition?" he answered, "Yes;" and he then took out the cross, and kissed it himself. But this was no proof that any oath was administered by Vimercati. On the contrary, their lordships would find that the question relative to the administration of an oath was repeatedly put in the course of the evidence, and as repeatedly negatived. He would again state to their lordships, with perfect confidence, that if they examined the evidence fairly and candidly, they would see, that though the witnesses were asked, were they ready to swear to their depositions? yet no oath was put to them. They were all asked if they were ready to swear; and they all answered that they were, if called on to depose upon oath. In saying this, he stood in their lordships' judgment; and, of course, his assertion would go for nothing, if it were not borne out by evidence: but, on examining the evidence, it would be found that no oath was administered to the witnesses by the commission; but, as he had before said, they merely stated what they knew, or had seen connected with the subject under investigation, and they were asked whether, if required, they were willing to be examined on oath. This was all that took place, and no oath was administered. Why did he state this? Because, if assertions were confidently made on the other side (assertions which had no more to do with the question than the most remote subject that could be discussed), they must be met by a reference to facts. What was the question they were now called on to decide? It was merely this—whether or not it could be inferred, from the evidence given by Restelli, that there was that sort of

agency, on the part of Riganti, which his learned friends themselves admitted must be proved before a particular line of examination could be pursued. He denied that any evidence had been given that could lead to such a conclusion. It was asserted, on the other side, that Restelli had offered money. It was not necessary to go into that point now; it might, hereafter, be adduced in contradiction to what that individual had sworn; but he could not allow the witness, who had stated that Restelli offered him money, to go further, and detail a conversation he had with another person. It was now stated that Riganti was the agent of the Milan commission, and, therefore, that evidence respecting him ought to be received. But where was the proof of this agency? All that was said by Restelli was, that a man of the name of Riganti, a tobacconist, came to tell him that the Advocate Vimercati wanted to see him; and his evidence then went on thus:—

"Was anybody with the advocate when you first went?—There was not.

"Did the advocate then take your deposition?—He did not.

"Did he ask you any questions about what you knew?—He did.

"How soon after that did you go before the commissioners?—I believe a day or two after.

"How many persons did you find assembled there?—There was the advocate, three English gentlemen, and two Italian amanuenses.

"Did you then tell the same story you have told today?—I did.

"Was it taken down in writing?—It was.

"Were you sworn to the truth of it?—They did not swear me, but they told me that I should be obliged to swear to the truth before a tribunal; I said that I would.

"Did you then take out your own cross and kiss it?—I did not. I was not then to take an oath; he only told me that I should be obliged to swear, if the occasion should require, before a tribunal; and I said I would."

All that they were told, therefore, was, that Riganti

came to this witness from Vimercati, and from that his learned friends argued it must be concluded at once that Riganti was the authorized agent of those persons who formed the Milan commission; that he did not go to Restelli only, but that he was an authorized agent appointed specially to collect evidence. If on so slender a ground they let in evidence of this nature, their lordships could not tell where they were going, or where they were to stop, on such an occasion. They would, in fact, be trying collateral issues, instead of being guided by proper evidence—that which alone they ought to look to—namely, the truth or falsehood of the preamble of this bill. They were asked to proceed in a different course; to admit evidence, which would be received in no court of justice whatsoever, even in a civil case. It was clear, *ex concessis*, on the other side, that this evidence could not be admitted, unless proof were given of the actual agency of Riganti. No such evidence had been given, or was now offered. When that agency was established, it would be time enough to see whether, even then, such evidence as that contended for could be received. At present it was sufficient to inquire whether there was any evidence of such agency. Could it be admitted that, because a servant carried his message, his principal became accountable for all his acts? Undoubtedly not. Here nothing appeared but that this Riganti told Restelli to go to the advocate—and that he went in consequence. But, admitting this, was such a circumstance to let in all his acts, and all his statements, as evidence? He interposed this objection. It would be for their lordships to decide whether they would be guided by the rules they had laid down themselves, —whether they would be guided by the rules that obtained in courts of law. He conceived that the decision their lordships had arrived at on Saturday, and which appeared so clear that it occasioned little argument, supported the answer given by him and his learned friend to the other side. It was so clear, that, after refusing the question which was then put, he thought it was impossible for their lordships to admit the question which was contended for on the present occasion. There was no more reason, in his opinion,

for letting in the confessions and declarations of Riganti, than there was for admitting those of any other individual who had chanced to be named in the course of these proceedings.

The Lord-Chancellor thought it was his duty to state, that, according to any understanding he had of the principles and law of evidence, these declarations could not, in the present stage of this proceeding, be admitted; and, if any noble lord could entertain an opinion, that, according to the course and practice of the courts below, the view which he (the Lord-Chancellor) took of the subject could be so far contradicted as to have it shown that the practice of those courts would let in such evidence, it would be competent to that noble lord to have the advice of the learned judges on the question, and he would feel obliged to the noble lord who called for that opinion, in order that he might thereby correct his own. So far from his mind being satisfied with what passed on Saturday last, he did assure the noble earl (Grey), that, recollecting what had occurred on that occasion, he had since paid much attention to the subject. There was a great deal of good sense in a few words of bad Latin, "Qui pauca considerat facile errat;" and he had not failed, since that time, to put to himself several questions on the subject—to reconsider it, in fact, as it had undergone so little discussion. In the first place, he would call back their lordships' recollection with respect to what passed as to the witness Restelli. He stood on their minutes as having given particular evidence—and witnesses were called to their bar, (and, he thought, most properly and justly called to their bar, in the absence of Restelli, considering that absence not to have been occasioned by the party opposed to the bill,) in order to state declarations that had been made relative to that person, with a view to his contradiction; and the witness was asked a question, whether Riganti had ever made any declaration to him? This, taking it in any point of view their lordships pleased, could not be admitted, under the present circumstances of the case. Here he hoped he should not be told in any future stage of this question that there were any noble lords sitting in that House who could have any anxiety with

respect to personal convenience. He protested against it as the most unjust thing that could be imagined, as a thing that could not be tolerated. He would put what he was now about to state in a purely hypothetical manner. He would suppose, hypothetically, that the government might be called, if they pleased to give them the name (as odious a name as could be given to them)—the prosecutors on this occasion; that the Milan commission were, as they had been called the other day, a branch of a joint-stock company; assuming this to be true, he would suppose that the government, or the Milan commission, or both, having been distinctly proved to be the prosecutors in this business, had employed certain agents, whose acts were to be made evidence in this proceeding: it could not be done unless proof were given of that agency; and, in this case, no proof was given that Riganti was an agent to anybody. Now, before the act of an agent could be given in evidence, he was justified in saying that the agency must be established. There were various ways to establish the fact of agency. It might be established by the admission of the principal; it might be established by the agent himself making proof of the fact; and it might be established by the evidence of other persons, with respect to the acts of the person represented to be the agent. The law allowed the agent to prove it himself, which was a better mode than by having recourse to the evidence of third persons. The agent might, therefore, be called to prove what came within his own knowledge. This was not attempted here. Was there any admission of the principals in this case? Certainly not. Suppose the acts of Riganti did not prove him an agent, had he been called himself to show his agency? He had not. Was there, then, any proof given by other persons? He knew it might be said—and, in all probability, it would be said—that it was placing individuals under great difficulties if they were asked to call persons to prove an agency, who might also prove other circumstances which the party by whom they were called did not wish to give in evidence. Supposing it to be so, were the rules of law, therefore, to be broken down, in order to remedy the inconvenience? The third species

of proof was from acts done by the person alleged to have acted in the character of agent. Now, if their lordships would look to the evidence, pages 410, 411, 412, (Ch. p. 439–40,) they would see that there were no acts given in evidence which proved agency:

"Who sought you?—The first time, a man of the name of Riganti came to tell me to go to the advocate."

Was it, then, to be contended, that, because Restelli, in consequence of a message he received by Riganti, went to the Milan commission to be examined—was it therefore to be contended that Riganti was agent to the Milan commission? Because one man was sent to call another, agency was to be inferred! He could only say that, in the course of his experience, such a proposition he had never heard. The counsel for her Majesty were bound to call Riganti, then, if they meant to proceed upon his acts. His lordship did not know how he should act, if called upon to give his opinion judicially upon the obligation to tell where Riganti was to be found; but if he were asked where he was, and knew where he was, he would have told it at once. If their lordships should, without calling Riganti, suffer counsel to give evidence of what Riganti had said, where would they stop? If they called Riganti and proved agency, then they might proceed to hear evidence of his sayings and acts. But, otherwise, the consequences might be monstrous. There might be conspiracy on one side as well as on the other. He did not mean to throw out any insinuation. Whatever the result of this inquiry might be, he would never forgive himself if he threw out any thing to fix an imputation during the inquiry. But there might be conspiracy against conspiracy. If then, 19 or 20 persons should come before them and swear that they had been offered money, how could their lordships say on which side those who offered money were employed? They must prove a great deal to prove an agency by the acts done. This was not proved in the present instance; therefore the agent must be called, whatever might be the consequence of calling him, if his acts were to be given in evidence. This was his view of the present objection. It would be a great relief to him if any noble lord would draw up a question to be sub-

mitted to the judges respecting this point. He felt always great reliance on the experience and wisdom of the judges, and the sanction of their authority was a great relief to him in every case of legal difficulty.

Earl Grey said that the noble and learned lord had correctly stated, that when he (Lord Grey) proposed that this question should be put to the witness, he did it in consideration of the decision of their lordships on this point on Saturday last, not believing that that decision was right in the peculiar circumstances of this case. He had been desirous that the Attorney-General should state such objections as might occur to him, that their lordships might deliberately consider the subject, with the manner in which the Attorney-General had supported the objection. The objection was ably made by the Attorney-General, and ably supported by the noble and learned lord. He might perhaps expose himself to the imputation of pertinacity, when he still persisted in entertaining the opinion that the question ought to be put. The statement of the noble and learned lord as to the practice in the courts below was, no doubt, quite correct; and if the point were submitted to the learned judges, their decision would be such as the noble and learned lord had stated, and therefore he had no wish to refer the point to them. He would admit that, according to strict and technical rules of law in other courts, the question could not be asked. But the question was here, whether their lordships were bound by those strict and technical rules, or whether the peculiar circumstances in which they were placed did not require some relaxation of those rules, and authorize them to do what in other circumstances would be irregular. He had admitted before, that it was desirable that the House should restrain itself as much as it was possible by the rules of the law; but the House was not to be restrained from a departure from those rules when circumstances justified such a departure. The question was, then, whether they were here so situated as to be authorized to depart from strict rules of law? What was their situation? It was admitted on all hands that the general agency of Riganti was not so proved as to authorize questions to be put respecting his acts and

sayings. But he begged their lordships to recollect that this was a bill of pains and penalties — a bill of pains and penalties proposed by his Majesty's government—a bill of pains and penalties supported by evidence collected by a commission which had been appointed by the government. It was a severe and anomalous measure to deprive the Queen of her rights—to degrade her from her dignities—to remove her from the rank and station which belonged to her. Whatever in course of such a proceeding appeared at all suspicious or tainted, ought to be rejected. He agreed with a noble lord, that in such a proceeding they were bound to see that the evidence should be not only unsuspicious but unsuspected. It was proved by Restelli that Riganti had been employed to bring witnesses to Milan. Restelli said Riganti came to him to desire him to go to Milan to give his deposition, and he in consequence went. Where got Riganti this instruction to seek for witnesses, and to get them to give evidence? When their lordships found this fact established, and when they found that he went to a witness and stated, "If you will give particular testimony, you will get a great reward;" who could deny but this must affect the bill before them, and influence their decision? He admitted that a general agency was not proved in such a manner as would authorize the calling of evidence to the acts of the agent in the courts below; but such acts were proved on his part under the Milan commission to collect witnesses and to suborn testimony, as made it the duty of their lordships to go into the inquiry, in order to see that they were not imposed on by corrupt and suborned evidences. These were the general views on which he thought it justifiable to depart, in such a case as the present, from the strict rules of law in the courts below; for, thank God, no similar cases were to be found in those courts. He felt great reluctance to press what had been opposed by the noble and learned lord; but by whomsoever the witness had been acted on, and by whatever means evidence was corrupted, those agents, and those means, he felt it his duty to require to be fairly exposed to their lordships. Therefore he pressed his opinion, if any noble lord supported

that opinion, for he knew not whether any other lord entertained the same views of this point. He had no interest one way or other. He only wished the case to be laid fairly and completely before the public, that no decision might rest on suspected, contaminated, and corrupt evidence, and that no unexamined and unascertained imputation might rest upon the proceedings.

Lord Erskine agreed that the only question was, whether the question proposed to be put to the witness was not necessary to arrive at a just conclusion upon the evidence before them. The noble earl said that it was too late now to alter the rules on which they had hitherto proceeded. He agreed in that proposition, unless he could show that this particular inquiry was impracticable in any other form but that now proposed. He did not rise to oppose his noble and learned friend's opinions. He agreed in those opinions, but he rose to state why he thought that in this instance their lordships ought not to be confined to the rules of strict law. If he on any occasion expressed opinions, or if any noble lord went beyond the evidence before the House to animadvert on any individuals, it was the duty of the House, or of the counsel at the bar, to correct that error. He had not said that the gentlemen of the Milan commission had conducted themselves improperly. On the contrary, he was ready to bear testimony to the honor and integrity of the gentleman who was at the head of it. But he had said, that if the commissioners were pure as angels, still the witnesses might have been corrupted before they were brought to them. It was for their lordships to say whether they would rely on the evidence of persons so corrupted, and evidence so much shaken and contradicted. He believed he had said, at least he meant to have said, that there was evidence to call for an inquiry whether there had not been a conspiracy to procure evidence against her Majesty. The principles on which the Milan commission was founded were not in issue, and the commissioners had not been suspected by him; but if they wished to have his opinion upon the evidence produced, they must not decide too hastily against the utmost inquiry into the mode of procuring that evidence. The noble earl on the other

side had said, much to his honor, that it was only evidence untainted by suspicion on which the House could decide. But the inquiry now proposed affected the whole of the evidence. It was, therefore, necessary, if the whole of the evidence should not be destroyed, to inquire into the means of obtaining witnesses. In a former stage of the proceeding the judges had given their opinion according to the established rules of law in the courts below. Yet their lordships, by calling back Majochi, departed from those rules, for the purpose of substantial justice. If Riganti was not an agent, what was the meaning of the conduct imputed to him by the evidence before them? He came to Restelli, and asked him to go to Milan to be examined. He desired that part of the evidence to be read. His lordship afterwards read from page 410 of the evidence (*Ch. p.* 439,) the account of Riganti's invitation to Restelli to give evidence (under head "cross-examined by Mr. Wilde.") This proved that Riganti was agent for the purpose of going there to get Restelli to give evidence. If Restelli had had no disposition to go of his own accord, it was the agency of Riganti that prevailed upon him to go. It would be for their lordships, by and by, to consider what weight or confidence they could give to evidence so procured. It would be quite impossible, according to the doctrine of his noble and learned friend, to prove agency wherever there was a conspiracy, or attempt at subornation: for, should they call Riganti, it would be not to prove that some had been corrupting and corrupted, but that he himself had been corrupting and corrupted. He did not ask what the consequence would be of calling Riganti, but he asked, for what purpose he could be called to this point: for, if placed at their bar, he could not be asked whether he had offered money to bribe witnesses. If their lordships were of opinion there was no conspiracy, they could say so; but how could they be satisfied there was none unless they heard the evidence that was now offered? And if they did not satisfy themselves whether persons went about telling witnesses, "if you will give evidence against the Queen you will have a great reward," how could they ascertain whether this was so or not? He could not suspect that

such subornation proceeded from the Commission of Milan; but when he saw a great personage discountenanced by all the powers of Europe—driven from her own country, and from the society of her friends—forlorn in her circumstances and prospects—and when he saw all the power of the State arrayed against her, he, from experience, which was as extensive in such matters as that perhaps of any of their lordships, felt it to be of the utmost importance to ascertain how persons came to be witnesses against her. They could not without this do justice; but this was not a court of justice. They had no right to try in the present instance by a judicial proceeding; for in an impeachment the Queen must have been charged with high crimes and misdemeanors; yet here no crime at all was charged. Therefore, they chose to adopt a legislative proceeding, and then they talked of the rules of law. When he had moved for a list of witnesses, he said that he had no objection to witnesses brought from beyond sea, provided there were time and means allowed to inquire into their character, and into the circumstances upon which they gave their testimony. But when witnesses were brought before their lordships from an immense distance, he must feel it his duty to inquire into whatever suspicions of corruption could arise against them. He could not shut his ear to charges of that nature; and if their lordships refused to go into the inquiry, they could not expect his vote upon the evidence. While there was a suspicion unremoved from the motives of the witnesses, he could not vote for the bill, if the evidence of her Majesty's guilt were as clear and positive as possible. If he acted otherwise, he must renounce the principles on which he had acted through life. The Attorney-General had argued that Restelli had not been sworn at Milan; counsel did right in taking every objection. But if the objection had been taken that he had not been sworn, stronger evidence could not be given to the contrary, than that he had been asked whether he would swear to the truth of what he said, that he answered in in the affirmative, and kissed the cross. If their lordships rejected this question, whatever corruption there might have been abroad, they could not go into it.

Did they not see that matters came out in evidence which had not been expected? Did any man say that he felt the same confidence in the evidence as before those matters came out. If he should be called on to give his opinion upon the truth of the preamble, he would become the lawyer again—and in course of his life he had had more experience perhaps than any of their lordships, either on one side or the other of public prosecutions—he would then show what evidence ought to be received and what evidence ought not. Because the witnesses had come from a great distance, and because he found there was much corruption in obtaining evidence, if this question is refused I can go no further.

The Lord-Chancellor wished to say a few words in reference particularly to what had fallen from a noble and learned friend respecting the character of one of the witnesses. The course of a professional life often led to the employment of expressions that ought not to be taken with all the weight usually attached to them; on this account, the character of the witness given on a former day by his noble and learned friend, while in that of to-day he (the Lord-Chancellor) was disposed fully to concur, viz., that his evidence ought to be looked at with jealousy. Its real worth must depend upon the result. As to bills of pains and penalties, he could not but congratulate the House that in the present instance, disregarding in some respects the precedents of former times, it had guided itself by the ordinary rules of evidence prevailing in our courts. With reference to Riganti, it had been said that if he were called, he could not be asked whether he had given a bribe. This was true; but the authority under which he acted might be inquired into, and other circumstances connected with his agency, besides the facts whether what he did fell within the scope of his authority.

The motion of *Earl Grey* was then withdrawn, and the witness *Pomi* was recalled.

Lord King.—Did Restelli say to you, that Demont

either had received, or was to receive a large reward for giving evidence against the Queen?

The Attorney-General objected to the question, and by his desire the following extract was read from the former evidence of the witness, page 838: (*p.* 488.)

"I asked him whether Demont was still in the service of her Royal Highness; he told me that she was: he did not mention to me her name on the day he was taking the drawing, but he mentioned it on the second day, and told me that she had made a good day's work; we were there at the inn, and we drank together."

Mr. Cohen.—He added these words: "and that she, Demont, had gained a great sum."

The question was withdrawn.

A Peer.—Do you expect you shall be paid more or less, in proportion as your evidence may be more or less favorable to the Queen?—I have no hope; but I only say that if they give me I will take it; but I have no hope.

The witness was directed to withdraw.

Mr. Brougham then called to the bar

BONFIGLIO OMATI, who, after being sworn, was examined by *Mr. Wilde*, through the interpretation of the *Marchese di Spineto.*

Were you clerk to the Advocate Codazzi at Milan?—Yes.

Was Codazzi concerned as a professional agent for her Royal Highness the Princess of Wales?—He was.

Do you know the Advocate Vimercati?—I do.

Had you at any time any communication with Vimercati respecting the Princess of Wales's papers in Codazzi's custody?—I had.

Did you in that communication explain to Vimercati your reason for coming to him?—Because there was a person who had conducted me as far as his door.

Did you state that to Vimercati?—I did not.

Did you state to Vimercati any thing which had passed between you and that person who had so brought you to Vimercati's door?—The moment he saw me he

knew me, and he told me to bring him the papers belonging to her Royal Highness.

Did he offer you any inducement to bring those papers?

The Solicitor-General interposed. It was his duty to object to this course of inquiry as to any conversation between the witness and Vimercati. He apprehended that it could not be evidence with reference to the charges in the preamble of the bill.

Mr. Brougham remarked, that it might be convenient if the other side would state not only the objection, but the grounds on which they rested it.

The Lord-Chancellor concurred with what had fallen from Mr. Brougham.

The Solicitor-General wished to know on what principle of law declarations of Vimercati could be made evidence. Suppose Vimercati had been engaged either as attorney or as advocate, his conversations could not be used to repel the charges against her Majesty. It seemed his business to wait until he heard the argument on the other side; for all he could do at present was to submit with confidence, that, according to the rules prevailing in our courts, what the witness was called upon to state could not be received. If he were required to go more into detail as to his objection, he professed his inability to do so, as the question put was in opposition to the first principles of the law of evidence.

Mr. Wilde, in support of his question, observed, that he apprehended that it would not be made a question whether Vimercati was or was not an agent; on the evidence he stood a known and accredited agent of the Milan commission.

The Lord-Chancellor.—Would it not be better to refer to such parts of the printed evidence as support that conclusion?

Mr. Wilde was prepared to do so if it were held necessary, but he had concluded that the fact would not be disputed. The testimony of Gargiulo, on p. 131 of the printed minutes, (*Ch. p.* 125-6,) was clear as to the instrumentality of Vimercati. The witness was asked—

"Did you see Colonel Brown before you came from Italy to this country?—Yes.

"Were you examined then, just before your departure by Colonel Brown?—No; Colonel Brown examined me last year, in December, as I have said before.

"And a certain lawyer, Vimercati, was present, was he not?—Yes; Vimercati put the questions in the presence of Colonel Brown.

"Were your answers put down in writing?—I believe so.

"Were you sworn to the truth of them?—I subscribed my name at the end of the paper; but I did not swear to it.

"That was in the presence of Colonel Brown and Vimercati?—Yes.

"Have you seen this lawyer, Vimercati, since you were examined?—No; now that I passed through Milan I have not seen him.

"You have not seen Vimercati, since you were examined by him in December?—No.

"Did you see any other person on the subject of your testimony, except Colonel Brown and Vimercati?—No.

"The question refers to the subject of the Princess of Wales?—I have seen no other but Vimercati and Colonel Brown."

From the evidence of Di Rollo it also appeared that he was examined before the advocate Vimercati. Raggazoni swore to the same effect, on p. 227. (*Ch. p.* 286.)

"When you were examined at Milan, was what you said taken down in writing?—It was taken in writing.

"Did you sign it?—I did.

"Were you sworn?—Yes, I took an oath at Milan.

"Who swore you?—The advocate Vimercati.

"In what form?—He told me, 'Are you ready to swear upon the truth?' and I said, 'Yes, the truth.'

"Were you sworn upon the gospels, or in what manner?—He told me, 'You are, then, ready to come and swear to the truth? I said, 'Yes, I am ready to come and swear to the truth.'

"Were you sworn upon the cross at that time?—Yes, I took the oath upon the cross; I took the cross which I carry about me, and I kissed it myself before Vimercati.

"Who was present besides Vimercati at that time?—

There were two or four more people who were present, but I do not know who they were; I have given my examination, but I do not know who they were."

Again, on p. 233, (*Ch. p.* 293,) the evidence of Mejani.

"Then you went to Milan without knowing what you were going for?—They had told me that the advocate Vimercati wanted to speak to me, but they did not tell me the motive till I reached Milan.

"Did you know Vimercati before?—I have heard his name mentioned, for he was a friend to a friend of mine, Advocate Marochi; but I never had known him.

"Whom did you see when you got to Milan?—Nobody.

"What persons did you see or go before on this question, when you got to Milan?—When I reached Milan, they told me the hour at which I ought to call at the house of Vimercati; there was this Vimercati, two or three other persons, whom I did not know, and two other Milanese, whom I did not know.

"Were those two or three persons whom you did not know, English?—They told me they were Englishmen, but I did not know them.

"Did you hear the names of them?—No, then I did not; afterwards I heard their names.

"Was the name of one of them Colonel Brown?—I heard it afterwards, but then I did not know him.

"Was the name of one of the others Mr. Powell?—I never heard of him but after five or six months, but at that time I did not know him."

Omitting several intermediate proofs of the activity of this advocate, he called the attention of the House to page 424, (*Ch. p.* 448,) where Guggiari was asked—

"Were you examined at Milan?—I have been by Vimercati.

"Who took you to Milan?—A man by the name of Massareni, of Lugano, took me to Milan.

"When did you first mention this which you saw in the pantry?—I have said it before the advocate Vimercati.

"Was that the first time?—That was the first time in which I have spoken of what I have seen.

"Are you quite sure you never mentioned any thing

of it to anybody, until you saw Vimercati?—He asked me whether I had seen something, and I told him I was always there; and he told me, will you have any difficulty to come and speak to a gentleman; and then this advocate Vimercati said, will you have any objection to come with me to Milan; and I told him yes, I have no objection, I will come with you to Milan."

In short, many other and perhaps stronger instances of the same kind of proof were to be found; for nearly all the witnesses had been examined by Vimercati at Milan, having been drawn thither by subordinate agents. If, therefore, his conduct was not to be made the subject of inquiry, it was very difficult to say whose might be examined. Vimercati and Colonel Brown were the most active persons connected with the Milan commission. Upon the latter of these an eulogy had already been pronounced, and it was complained by his friends that a great deal had been stated, and very little proved. Yet, now the proof was offered, it was resisted, and no doubt for very good reasons, though none of them legal. What the counsel for the Queen intended to do was to prove a corrupt application on the part of Vimercati, sanctioned as the evidence would probably show by higher authority, to obtain possession of the papers of her Majesty. Principals there were none had been often asserted, and now the House was to be told that there were no agents. If so, who was to be responsible? In any court a defendant would be permitted to show what had been the malpractices of the professional agents in getting up the case against him. [The witness was here directed to withdraw, the Solicitor-General observing, that he might understand English.] The same indulgence, or rather the same right, was here claimed for the Queen, who was prepared to show conduct on the part of the gentlemen to whom the witness had referred, such as before any learned judge now sitting on the woolsack would scout a prosecution from our courts; no judge would allow the ears of a jury to be insulted by the evidence of men who had been guilty of such base practices. He wished to show that Vimercati had corruptly endeavored to obtain possession of the papers of

the Queen through the clerk of her advocate in Italy. Undoubtedly, many cases might occur in the progress of this trial where the Queen's counsel would be unable to supply every connecting link of agency with some degradating transaction; they might not be able to bring home the fact of bribery in all instances; but the situation of her Majesty would be melancholy indeed, if, when such a detestable conspiracy had been formed against her, and she was provided with evidence to establish its existence, she were not allowed to bring it home to acknowledged agents, because the testimony might be defective in tracing their authority to some undiscovered principal. She might not be able to show always from what pocket the money came, but she could show that it had been employed, and under its influence she was now suffering. This wicked conspiracy had been completed by the vilest corruption, and that corruption had been carried into effect years ago by detestable agents, running from one end of Italy to the other. The Queen had already many disadvantages to contend with—one of them the lapse of time, which prevented detection—but none of them would be so destructive as a supposed rule of law to prevent her from exposing iniquity when she had happily discovered it. It was not necessary in this instance to argue upon probabilities, because here the fact was undeniable that Vimercati was an agent, a most active agent; and if his acts were not to be examined, if the House so decided, the Queen's counsel must submit, for they had no remedy, no appeal.

Mr. Brougham felt it necessary to say only a few words in addition to the very strong and clear statements of his learned friend. He was not much surprised that those who had been so loath to allow him to speak of principals should now be reluctant to permit him to detect the agents; for it was enough for the Queen's counsel to show that they had got firm hold of an authorized agent, to warrant them in asserting that the principal was bound by his acts. He was not bound to bring home to this agent the authority of ministers, or of any other persons under whom he acted; it was enough to prove that Vimercati acted under those who

formed the Milan commission, established for the purpose of hunting the Continent for evidence. In whose company was this advocate found? He was always seen co-operating, with Colonel Brown, the head of the Milan commission, and indisputably an agent. Mr. Powell, another member of that body, had been looked upon so much as a confidential agent, that he was allowed to keep back information under that pretext. Next came Vimercati, upon whom a panegyric might now be expected, as none had been yet pronounced; for it was enough to bring the conduct of an agent in question for the other side immediately to pronounce an eulogium upon him, as had been shrewdly observed by Mr. Wilde. Perhaps, however, it might be wiser if the Attorney and Solicitor-General postponed a little the expression of their admiration. He (Mr. Brougham) wished the solid proof to precede it; and if that were received, it might render needless the empty praise. He was not sure that Vimercati was a member of the Milan commission; but certain he was that a witness was never examined without his assistance; and his agency was not to be disputed, unless the other side meant to go the length of contending that there was no Milan commission. Granting that the acts of Vimercati could not be examined, because he was professionally and confidentially concerned; still, unless his employer were a principal party, it afforded the agent no legal protection; if it were otherwise, cross-examination would be destroyed, because every witness would shelter himself under the character of an agent to some party or other. Powell and Vimercati were precisely on the same footing—they had always hunted in couples, and acted in concert. Whenever a witness, as the old books expressed it, was handled by the one, he was handled by the other; and if he concluded after the handling of the one, he concluded after the handling of the other. It would be singular indeed if an attempt were made to reject Vimercati altogether, and to show that he was an agent to nobody and for nothing. Yet, if the other side did not go this length, it was clear that the counsel for the Queen would have a right to examine as to his acts. Another objection had

been more than hinted at, when it was said that conversations between Vimercati and the witness could not be given in evidence; but the truth was, that the witness was not required to depose as to the words spoken, but as to the fact done; the deed was every thing, and the word nothing. If they were prevented from pursuing this course, he humbly entreated the House—nay, the party most interested in the success of the bill, whose very all depended upon it—to answer this short question—how was it possible for the Queen to proceed further in her defence?

The Solicitor-General, on the other hand, observed, that after the experience he had had of his learned friends, he was not at all surprised at the variety of topics they had introduced. He would not go out of his way to follow them, but discharge his duty by shortly and simply stating the grounds on which he rested his objections to the testimony offered. Still he must say, on behalf of Mr. Powell, that he was a professional agent in support of the bill; that in that character he had carried on a correspondence with Colonel Brown; and that he was bound, as a professional man and as a gentleman, not to disclose voluntarily the nature of that correspondence. On this account, he had represented the situation in which he was placed to the House: personally, he had no backwardness in answering any of the questions put to him, but it was his duty to state the objections that operated upon his mind. Whenever questions on evidence arose, the other side pursued a most extraordinary course—nothing would satisfy them but charges of subornation of perjury; and the more serious the accusation, the more vague was the evidence they offered in its support. The rule in our courts of justice was this—that whenever a grave charge was made, the evidence to support it must be strictly legal. Yet, now all legal forms, all rules of evidence were to be overthrown, to establish the supposed enormous criminality of some individual. According to his apprehension, no act even of the Milan commissioners themselves could be given in evidence in the course of the inquiry, except it related to a particular witness examined at the bar; and a different course would lead to endless collateral

inquiries, and irrelevant charges. It was not necessary now to contend to that extent, the question being confined solely to the acts of the advocate Vimercati. It had been laid down, and most properly, that the acts of an agent, when acting within the scope of his authority, might be made use of against his principal; and applying that rule, what was the situation of Vimercati? According to all the evidence, he was nothing more than a person employed by the Milan commissioners to receive and take down the evidence. Did the other side pretend to say that what they were about to prove came within the scope of his authority? If so, another question arose—whether they were in a condition to go further, and attack any individuals but those examined at your bar. A great deal had been said about bribes: whether offered by the Milan commissioners, Vimercati, or any others, it might be legitimate evidence if they applied it to the witnesses already examined; but if the counsel for the Queen were not prepared to prove that, they could be allowed to prove nothing. Without, therefore, going into the general question, which was much more important, he rested his objection to the line of examination commenced upon this—that what was imputed to Vimercati was not within the scope of the authority with which he was invested by the Milan commission, and, if it were not the act of the agent, could not affect or bind the principal.

As soon as the Solicitor-General had concluded, the *Lord-Chancellor* adjourned the House, without coming to any decision.

OCTOBER 18.

When the *Lord-Chancellor* took his seat a gentleman from the Treasury presented an account of the expenses of the proceedings carried on against the Queen, in so far as the same could be made up.

The Lord-Chancellor stated, that a question which had been yesterday put by the counsel on the behalf of the Queen had been objected to by the counsel for the bill. The question might be represented to their lordships—at least he thought it a convenient mode of con-

veying to their lordships' minds to state it thus:—whether a certain person of the name of Vimercati, in order to induce other persons to come forward as witnesses, or to furnish testimony against the party accused by the bill, had not offered a corrupt inducement for that purpose? An objection was very properly taken by the learned counsel for the bill, which objection was answered by the counsel on the other side, and it became the business of their lordships to determine if that question could or could not be put. For his own part he must say, that the case of Vimercati might differ much from those cases which had been before argued, and on which the House had ruled that the acts of agency were not so proved as that they ought in any manner to affect the case. In stating his opinion upon the immediate question to their lordships, he should be extremely sorry to assume that which had been offered by the learned counsel who raised the objection—namely, that Vimercati being only the counsel or professional agent to the Milan commission, his acts could in no wise affect the proceedings of that commission. He should be extremely sorry to conclude upon so narrow a view of the case. Looking at the evidence, he conceived that there was sufficient proof apparent that Vimercati was, in fact, an agent of the Milan commission; for, if there was not absolute proof of his being an agent, he could not say that there was not proof to make him be considered as such. Upon this understanding of the case, he wished to have the opinion of the learned judges, and he would therefore propose a question for their decision—one which he conceived to be absolutely necessary for his own and their lordships' guidance—that they should know what would be the law and the course of proceeding upon a similar case in the courts below, taking the case to be one which had already proved Vimercati to be an agent of the Milan commission; and considering the fact that he had not been called or examined, and assuming what need not be questioned, that he had offered temptations to witnesses to appear: supposing also that no proof could be made out that any of the witnesses who had been examined for the prosecution had been corrupted, in such a case could evidence be

admitted to show that any attempt had been made to corrupt the witnesses who appeared for the defence? His question would be, if in the trial of a civil action or a criminal indictment, evidence had been given on the cross-examination of the witnesses examined in chief for the plaintiff in the civil action, or in support of the charges of the indictment, from which it was to be inferred that A. B. had been employed to collect witnesses for the plaintiff or the prosecution, and if the defendant in a civil action, or under indictment, offered proof that A. B. had gone about to induce C. D. to give corrupt testimony in support of the civil action or criminal charges, no witness called as a witness in chief for the indictment, or the civil action, having under cross-examination, given any proof of A. B.'s corrupt agency—would the practice of the courts below allow C. D., a witness called for the defence, to give proof that A. B. had offered corrupt motives to induce him to give false testimony in support of the civil suit or the criminal charges, there being no proof that A. B. had been authorized by his principal to make offers? The noble and learned lord concluded by moving that this question be referred to the judges.

Lord Erskine spoke at some length, but in a tone of voice which was not distinctly heard below the bar. The evidence, he thought, ought to be received or rejected by their lordships' decision. He had not altered the opinion which he gave on the subject yesterday. Having considered the matter still further, and called to his recollection his practice at the bar in early life, he felt convinced that the examination of the witness ought to be allowed, without any question being put to the judges. He thought it strange that, after the admission had been made that the House were bound by no technical rules, but were to attain the truth and administer substantial justice, the admission of this testimony should be opposed; and in that anomalous proceeding all the disadvantages were still thrust upon the Queen, and none of the advantages accorded to her. Notwithstanding that admission, and the admission (reluctantly made) that nothing could make amends to the illustrious accused for the absence of a material witness, it was not

only wished to fasten them down to the rules of law, but to rules of law totally inapplicable to the present case. He would suppose a criminal indictment preferred against persons for suborning witnesses against the Queen. Were he counsel for the prosecution, he would first prove the existence of the conspiracy, and then endeavor to bring it home to the parties by witnesses who would prove the acts of the agent. In the case of the State Trials of 1794, this was the mode in which his noble and learned friend proceeded. A conspiracy to dethrone the King was first attempted to be proved, and then to prove the agents. In the trial of Hardy, the defendant objected that none of the acts proved were made to connect with him; and the learned judge who presided had said, that the charge was of two parts, and the prosecutor might first prove the existence of the conspiracy, and then bring it home to the parties as well as he could. In like manner, the learned counsel might bring proof of a conspiracy against his Majesty. He might bring it home first to Vimercati, he to Colonel Brown, and Colonel Brown to the actual prosecutor. If there had been a conspiracy on foot, no matter by whom, it was the duty of their lordships to sift it to the bottom, to prove the acts of the agents, and thus trace it to its source. The attempt of Restelli to corrupt witnesses was unexampled in the history of jurisprudence; and were their lordships, with the knowledge of this fact, to suffer the matter to rest here? If the counsel for her Majesty proved various acts of subornation of witnesses, how were their lordships to know whether the witnesses already examined had not been procured by these means? He did think they had been suborned, because no person deviates from the truth without some sinister motive; and when their lordships found witnesses declaring on oath what was notoriously and wickedly false, ought they not to be particularly cautious in the evidence they admitted to weigh on their minds? If their lordships divested themselves of the right to probe and examine into the alleged conspiracy, they might undoubtedly do so; but no man who was not a fit inhabitant of Bedlam would say, that, if the evidence were gone into, they

were not competent to judge of the probability or improbability of the charge; if they were not, they ought to retire from the situations which they now filled. It was the duty of the counsel for the defence to bring forward evidence to prove this conspiracy; and it was no less the duty of their lordships, as he conceived, to hear that evidence and decide upon it. If it was proved that an agent of the Milan commission offered to bribe a single person to give evidence against the Queen, this single proof of the conspiracy tainted the whole evidence; for, although there might be some witnesses who could not be proved to have been thus bribed, yet it threw a suspicion upon the whole. He would appeal to the noble earl opposite, if he had known, before the commencement of this unfortunate business, what he knows now, if he would have gone into the prosecution? He felt perfectly convinced that he would not. Their lordships were not to confine themselves to the rules of a court of justice, for no court of justice ever had to decide on such a cause. He entreated their lordships to permit the counsel to trace the conspiracy to its source; for of the existence of a conspiracy no one could doubt. Their lordships would thus best discharge their duty to the sound principles of justice, to their own character, and to that posterity by which their conduct would hereafter be judged.

The Lord-Chancellor said he had prepared a new form of putting the question to the learned judges, which, with the permission of their lordships, he would read.

I. If in the trial of an indictment for a capital offence or any crime, evidence had been given upon the cross-examination of witnesses, examined in chief in support thereof, from which it appeared A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine C. D. as a witness to prove that A. B. had offered a bribe to E. F. in order to induce him to give testimony touching the matter in the indictment, E. F. not being a witness examined in support of the indictment, or examined before it was so proposed to examine

C. D., would the courts below, according to their usage and practice, allow C. D. to be examined for the purpose aforesaid, or could such witness, according to law, be so examined, if the counsel, employed in support of the prosecution, objected to such examination?

II. If in the trial of an indictment for a capital offence or other crime, evidence had been given upon the cross-examination of witnesses examined in chief in support thereof, from which it appeared that A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and to examine evidence and witnesses in support of the indictment, and the party indicting should propose in the course of the defence to examine G. H. as a witness to prove that A. B. had offered him a bribe to induce him to bring to him papers belonging to the party indicted, G. H. not having been examined as a witness in support of the indictment, would the courts below, according to their usage and practice, allow G. H. to be examined for the purpose aforesaid, or could such witness, according to law, be so examined, if the counsel, employed in support of the prosecution, objected to such examination?

The judges then retired.

After an hour's absence, the judges returned to the House.

Lord Chief Justice Abbott stated, that the judges had conferred together on the questions propounded to them; but, in consequence of their great importance, they required farther time, until to-morrow, before they delivered their opinion.

Lord Erskine rose for the purpose of proposing that another question should be referred to the judges, with the view of ascertaining whether evidence like that on which their lordships had been debating, and on the propriety of receiving which no decision had yet taken place, might not, under particular circumstances, be legalized, and rendered admissible. Although the question put to the learned judges might be by them decided in the affirmative, he would assume that a negative decision had taken place, and under that supposition he would put the following question:—

III. Supposing that, according to the rules of law, evidence of a conspiracy to suborn witnesses in support of the prosecution ought not to be admitted, except such as directly applies to a prosecutor or an agent employed by him, general evidence of such a conspiracy may not, nevertheless, in the first instance, be received as a preliminary step to affecting the prosecutor himself, or any agent employed by him; and whether the same rule would not apply as to receiving evidence from a defendant, indicted, seeking to establish the existence of a conspiracy to suborn witnesses against him?

His lordship moved that this question be referred to the judges.

Counsel being called in, the Lord Chief Justice stated that the learned judges had conferred upon the questions referred to them by their lordships, but that some doubt being entertained as to the point intended to be proposed by the third question, he took the liberty of suggesting whether their lordships would be pleased to give some explanation of that question.

Lord Erskine, who had been consulting with the judges, withdrew the third question, and the following was agreed to in its place:—

"Supposing that, according to the rules of law, evidence of a conspiracy against a defendant for any indictable offence ought not to be admitted to convict or criminate him, unless as it may apply to himself or to an agent employed by him, may not general evidence, nevertheless, of the existence of the conspiracy charged upon the record, be received in the first instance, though it cannot affect such defendant unless brought home to him, or to an agent employed by him; and whether the same rule would apply if a defendant sought by such general evidence, in the first instance, to affect the prosecutor with a conspiracy to suborn witnesses for the destruction of his defence."

Granville Sharp, Esq., was again called in, and further examined by the lords, as follows:

It has been stated to the House that you are desirous of making some correction in your evidence, with re-

spect to a person or persons stated to have been present at a dance at Calcutta. Is that so?—It is.

Be so good as to state what the correction is?—In the evidence I lately gave before your lordships, I stated that the Bishop of Calcutta was present at an eastern dance; since that time I have seen a private memorandum, made by a person who was present upon that occasion, made about the time, which leads me to believe that the Bishop himself was not present, though it confirms other parts of my statement.

Have you any reason to suppose that you made any mistake with respect to the other persons stated to be present on that occasion?—I have no reason to doubt; in fact it is confirmed by the memorandum that the other persons were present.

Are you correct in your recollection, and are you now of opinion that the Bishop was not present?—My memory is strongly impressed that the Bishop was present, but I consider the written document more to be depended upon than my memory.

The witness was directed to withdraw.

The Attorney General of the Queen requested permission to put in two letters, one of his late Majesty and the other of his present Majesty, both of which he had stated in opening the defence of her Majesty, and requested that the Earl of Liverpool might look at them to identify the hand-writing.

The Earl of Liverpool was accordingly sworn at the table by the Lord Chancellor; but Mr. Solicitor General expressing his willingness to admit the hand-writing of the said letters respectively,

The said letters were marked by the clerk assistant.

Samuel Inman was then called in, and having been sworn, produced a paper, and was examined as follows by their Lordships:

What paper have you got there?—A certificate of the servitude of William Carrington, in his Majesty's navy.

Are the entries taken from the original books?—I

have extracted this from the books of his Majesty's ships therein specified.

Those are faithful extracts?—These are faithful extracts from those books, made by myself; I have the books here from which this is taken.

The Solicitor General of the Queen, having seen the paper, stated that it did not occur to him to put any questions upon it.

The same was delivered in, and is as follows, on page 185:

The witness was directed to withdraw.

After a short time, the learned Judges being returned; the Lord Chief Justice of the King's Bench delivered the unanimous opinion of the Judges upon the first and second questions, severally in the negative; and gave his reasons as follows:

Lord Chief Justice Abbott.—My Lords, the Judges conferred together for some time yesterday, upon the questions proposed to them by your Lordships; and afterwards separated in order to consider them apart, and met again early this morning, and again conferred together upon them. All of us then agreed in the answers to be given to the questions proposed to us, and I having read to my learned brothers the writing which I had prepared as containing my own sentiments and answer, it was found that they concurred therein; and I have their authority, with your Lordships' permission, to deliver what I had written, (which your Lordships will observe is in the singular number, being originally prepared as my own alone), as containing and expressing their sentiments also.

My Lords, the first question proposed by your Lordships is in these words: "If, in the trial of an indictment for a capital offence, or any crime, evidence had been given upon a cross-examination of witnesses examined in chief in support thereof, from which it appeared that A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine C. D. as a wit-

Ships.	Bounty.	Pl. where born.	Age.	Entry.	Quality.	Discharged.		Time.			
						Time.	Cause.	Y.	M.	W.	D.
Manly Gun Ves.	Prest	Stockton.....	23	19 June 1805	Ab.....	10 Jan. 1806	.....	—	7	1	3
Railleur.....	.....	Essex.....	22	11 January 1806	Ab.....	21 Feb. 1806	.....	—	1	2	—
Do.....	.....	.....	.....	22 Febr'y 1806	Gun'er's Mate	21 Dec. 1807	.....	1	10	3	2
Majestic.....	.....	Essex.....	22	22 Dec. 1807	Ab.....	31 Dec. 1807	.....	—	—	1	3
Do.....	.....	.....	.....	1 January 1808	Quart. Mast'r	8 Feb. 1810	.....	2	1	1	4
Poictiers.....	.....	St. Osyth.....	26	9 Febr'y 1810	Quart. Mast'r	30 April 1811	.....	1	2	3	4
Do.....	.....	.....	.....	1 May 1811	Midshipman	8 June 1811	Thisbe..	—	1	1	4
Thisbe.....	.....	Never joined her						5	12	2	6

Navy Office, 17th October, 1820.

These are to certify, that William Carrington is borne on the books of his Majesty's ships above mentioned, the place where born, age at time of entry in each ship, qualities and cause of discharge, as therein expressed, being five years, twelve months, two weeks, and six days.

SAMUEL INMAN.

ness to prove that A. B. had offered a bribe to E. F. in order to induce him to give testimony touching the matter in the indictment, E. F. not being a witness examined in support of the indictment, or examined before it was so proposed to examine C. D., would the Courts below, according to their usage and practice, allow C. D. to be examined for the purpose aforesaid, or could such witness, according to law, be so examined, if the counsel employed in support of the prosecution objected to such examination ?"

My Lords, the question thus proposed by your Lordships to the Judges must be admitted by all persons to be a question of great importance, as it regards the administration of justice ; and it is to me a question entirely new, and of very difficult solution. I have considered it with all the attention due to a question proposed by your Lordships, and with an anxiety proportionate to the importance of the question itself ; and it is not without much diffidence that I now offer to your Lordships the result of my deliberation. Your Lordships will allow me here to interpose an observation, and to say, that the diffidence I felt at the moment of writing has been considerably decreased by the knowledge I now have, that my opinion and sentiments have received the concurrence of my learned brothers.

The question must, as it appears to me, be considered in the same mode, and must receive the same answer, as if the parties were reversed ; as if, instead of proof offered on the behalf of a defendant respecting the act of an agent employed by the prosecutor, it were proof offered in reply on the part of the prosecutor, respecting the conduct of an agent employed by the accused to procure and examine evidence and witnesses in support of his defence. If such proof can be received on the part of a defendant, it must be received on the ground that it may lead to a legitimate inference and conclusion, that the witnesses examined against him, although not appearing to have been called before the Court by any undue means, are nevertheless, on this ground extraneous and foreign to them, not to be considered as the witnesses of truth. And if such an inference and conclusion can be reasonably and legitimately drawn in favor of a

defendant, in the case proposed by your Lordships, I am unable to discover any principle upon which I may say that the like conclusion may not be with equal reason drawn against him in the analogous case, that I have taken the liberty to suggest; so that proof of this nature, if admissible, must be expected to lead as frequently to the condemnation of an innocent man, by casting discredit upon his defence, as to the acquittal of such a person by disgracing the prosecution; and this consideration enables me to contemplate the question proposed with more calmness than I should be able to view a question, of which the determination might possibly, by the exclusion of his evidence, lead to the condemnation of an innocent person, but could in no case produce the same consequence by the exclusion of evidence against him.

The question proposed by your Lordships, regards the act of "a person employed by the party preferring an indictment as an agent, to procure and examine evidence and witnesses in support of the indictment;" and it regards the act of that agent, addressed to a person not examined as a witness in support of the indictment, and the offered proof not apparently connecting itself with any particular matter deposed by the witnesses who have been examined in support of the indictment, and leaving therefore those witnesses unaffected by the proposed proof, otherwise than by way of inference and conclusion; and this question may be considered as it regards the prosecutor or party preferring the indictment, and as it regards the witnesses.

The prosecutor has by the hypothesis employed a person as an agent to procure and examine evidence and witnesses. This is a lawful employment, necessary in many cases, in some meritorious, in none disgraceful or improper, if we look either to the employer or to the person employed: and being a lawful employment, it is to be presumed, until the contrary be shown, that the employer means and intends that his agent shall execute it by lawful means; and as, according to the general rules and principles of law, a person is not to be affected in interest or fame by any act of another, although that other may have been in his employment or

confidence as an agent or otherwise, excepting such acts only as either are in their own nature, or may by extrinsic evidence be shown to be within the scope of the authority given by him, and which may therefore be considered as his acts performed by the hand, or his declarations uttered by the tongue of his appointed substitute, it would be contrary to those general rules and principles, to allow a prosecutor, and through him the prosecution that he has instituted, to be disgraced by the act supposed in your Lordships' question, without some further proof affecting him, than the terms of that question suggest. It is perfectly consistent with the matters of fact contained in your Lordships' question, that the prosecutor may, up to the very moment when the proof is offered, be wholly ignorant of the wicked act of his agent; it is no less consistent that, having been informed of the act, he may have rejected it with indignation, and have repudiated the proffered testimony, and withholden the witness from the court; and if he be absent from the trial, which frequently happens, it may be impossible to prove his ignorance in the one case, or the propriety of his conduct in the other.

With regard to the witnesses, my Lords, which is the most important part of this consideration, (because if false witnesses are produced against a person, it is of little consequence to him by what particular procurement they may have been produced,) it is to be considered whether a legitimate inference and conclusion can be drawn against their credit and veracity from the proof proposed. The proposed proof does not directly affect them; it regards an act to which, according to the hypothesis, they may be entire strangers, and being an unlawful act, they are not to be presumed to have been parties to it, or to any other act of the like nature, without proof against them; they may be persons of honor and probity, deposing to facts really and truly occurring within their own personal knowledge, and taking place within their own sight or hearing, as they have averred upon their oath. It may have been intended, that the person to whom the bribe was offered, should speak to other facts, occurring at another time, and in another place, wholly unconnected with them, or with the mat-

ters to which they have deposed ; can it then be reasonably concluded, that the facts deposed by them are untrue ; that however respectable or numerous they may be, they must be all wicked and perjured men, because some other man has from an overweening zeal or a corrupt heart, wickedly endeavored to seduce by money another person to give evidence touching the matter of that indictment on which they have appeared. I must say, my Lords, that I am of opinion, that such conclusion cannot reasonably be drawn, either in the case proposed in your Lordships' question, or in that analogous case which I have taken the liberty to adduce. The utmost effect, in my opinion, of the proposed proof, and in many cases even this would not be a fair or reasonable effect, would be to excite suspicion ; but suspicion is not a legitimate ground for the verdict of a jury, which ought only to be founded upon reasonable and probable proof. For these reasons, I think your Lordships' first question must be answered in the negative.

This, my Lords, is the opinion which after much consideration, I have formed upon the question proposed by the House. That question is couched in the most general and abstract terms ; and your Lordships must be aware of the difficulty that may often occur in forming an opinion upon a question of such a nature, applied not to a matter of abstract science, but to a matter connected with the business and affairs of men. Few cases occur in the practical administration of justice, wherein a Judge does not find some help toward a right decision of a questionable point in antecedent or accompanying facts and circumstances appearing before him, and is not guided in his application of general principles to the individual case by the particulars of that case itself. The question, as proposed by your Lordships, does not contain any such aid or guide ; I mention not this, my Lords, by way of complaint against the question, but by way of excuse for the imperfection of my answer to it ; and I must beg leave to add, that notwithstanding the opinion I have delivered on the question proposed, I am by no means prepared to say, that in no case, and under no circumstances appearing at a trial, it might not be fit and proper for a judge to allow proof of this nature

to be submitted to the consideration of a jury; and the inclination of every judge is to admit rather than to exclude the offered proof.

II. The same reasons which have induced me to answer your Lordships' first question in the negative, lead me to answer the second question also in the negative. —The question is in these words: "If in the trial of an indictment for a capital offence, or other crime, evidence had been given upon the cross-examination of witnesses, examined in chief in support thereof, from which it appeared that A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and to examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine G. H. as a witness to prove that A. B. had offered him a bribe to induce him to bring to him papers belonging to the party indicted, G. H. not having been examined as a witness in support of the indictment, would the courts below, according to their usage and practice, allow G. H. to be examined for the purpose aforesaid; or could such witness, according to law, be so examined, if the counsel employed in support of the prosecution objected to such examination?"

In answer to this question, my Lords, I must also take leave to add, as another ground of objection to the proof proposed in the question, that it does not thereby appear what was the nature of the papers alluded to, or what the motive of the party endeavoring to obtain them; for anything that can be inferred from that question, the papers might be unconnected with the subject of the prosecution, and relate wholly to some other and different matter.

Then the Lord Chief Justice of the King's Bench delivered the unanimous opinion of the learned Judges to the first part of the third question in the affirmative; and to the latter part of the same in the affirmative also, with a qualification, and gave their reasons as follow:

The third question proposed by your Lordships is, "supposing that, according to the rules of law, evidence of a conspiracy against a defendant for any indictable offence ought not to be admitted to convict or criminate

him, unless as it may apply to himself, or to an agent employed by him, may not general evidence, nevertheless, of the existence of the conspiracy charged upon the record, be received in the first instance, though it cannot affect such defendant unless brought home to him, or to an agent employed by him; and whether the same rule would apply if a defendant sought by such general evidence in the first instance to affect the prosecutor with a conspiracy to suborn witnesses for the destruction of his defence."

My Lords, we understand the first part of the third question to relate to a prosecution for some crime, the proof whereof is supposed to consist wholly or in part of evidence of a conspiracy entered into by the party then indicted and under trial, so that the conspiracy is to be given in evidence against him; and the latter part of the question regards the case of a person indicted for some crime, and seeking to defend himself against that indictment by proving a conspiracy to suborn witnesses against him; and the points of inquiry in both parts regard only the order and course of adducing the proof before the court; and so understanding this question, we have no hesitation as to answering the first part of it in the affirmative. We are of opinion, that on a prosecution for a crime to be proved by conspiracy, general evidence of an existing conspiracy may in the first instance be received as a preliminary step to that more particular evidence by which it is to be shown, that the individual defendants were guilty participators in such conspiracy. This is often necessary to render the particular evidence intelligible, and to show the true meaning and character of the acts of the individual defendants, and on that account, we presume, it is permitted. But it is to be observed, that in such cases the general nature of the whole evidence intended to be adduced, is previously opened to the court, whereby the Judge is enabled to form an opinion as to the probability of affecting the individual defendants by particular proof, applicable to them, and connecting them with the general evidence of the alleged conspiracy; and if upon such opening it should appear manifest that no particular proof, sufficient to affect the defendants, is intended to be

adduced, it would become the duty of the Judge to stop the case *in limine*, and not to allow the general evidence to be received, which, even if attended with no other bad effect, such as exciting an unreasonable prejudice, would certainly be a useless waste of time.

As to the second part of the question, my Lords, we understand it to be here assumed, that the supposed conspiracy to suborn witnesses against the accused is a legitimate ground of defence, and that your Lordships do not ask the opinion of the Judges upon that point, and therefore upon that point we do not presume to offer anything to your Lordships; and considering this latter part of the proposed question, like the first part, to regard only the order and course of adducing the proof, we should give the same answer, in the affirmative, with this qualification only, namely, that the proposed evidence should, in some way, be previously opened to the Court, as in the case of a prosecution to be proved by conspiracy, in order to enable the Judge to form an opinion as to the probability of bringing the evidence home so as to affect some person, whose acts are material and relevant to the issue in the indictment then under trial.

Then Mr. Attorney General stated, that having discharged that which he felt to be his duty, by taking an objection to that which he did not consider to be evidence in the courts of law, he begged now to state, that personally, he waived all objection to this inquiry, and that he left the matter entirely to their Lordships, reserving to himself, and to the gentlemen whose conduct might come into question, an opportunity of producing evidence, in case a prima facie case should be made against them.

The witness was directed to withdraw.

The counsel were again called in, and were informed that the question objected to might be put.

Bonfiglio Omati was again called in and further examined by Mr. Wilde.

The evidence of the witness on Monday last was read over, and the witness was asked:

You have stated that Vimercati told you to bring the papers belonging to her Royal Highness: did he offer you any inducement to bring those papers?—He told me that he would give me an employment, and he would give me more emolument than my own employer.

Did he state the nature of the employment he would give you?—In the police of Milan.

Did you afterwards possess yourself of any of her Royal Highness's papers, and take them to Vimercati?

The counsel were informed that the proper question would be whether he did anything in consequence?

Did you do anything in consequence of your communication with Vimercati, with any papers of her Royal Highness?—On the following day I brought him some.

Did Vimercati say any thing to you as to the time at which you were to go to his office?—He told me to call in the evening.

Did he mention any time in the evening?—After sunsetting.

Did you on any other occasion take any papers of her Royal Highness to Vimercati?—I did.

For how long a period were you in the habit of taking her Royal Highness's papers from Codazzi, her solicitor, and carrying them to Vimercati?

Mr. Solicitor-General objected to the form of the question.

On how many occasions did you take papers from Codazzi and carry them to Vimercati?—I do not know how many times.

Did you do it frequently?—No.

About how often do you believe?—Seven or eight times, at the utmost.

Did Vimercati know when you took those papers to him that you were a clerk in the office of Codazzi?—He knew it certainly.

By whose desire, or at whose request, did you take them?—I do not know the man.

Had you any conversation with Vimercati about your taking them?—He told me to bring to him those papers I could get.

Did you receive any thing from Vimercati for taking those papers to him?—Money.

How often did you receive money from Vimercati for taking to him her Royal Highness's papers?—Six times.

Were you satisfied with the money that you got from Vimercati?—I was not.

Did you ever make any complaints to Colonel Browne that Vimercati had not paid you money enough for taking papers from your master to Vimercati?—I complained once.

What did Colonel Browne say to you on your making those complaints?—He told me he was a friend to the advocate Vimercati, and that I ought not to doubt that he, Vimercati, would perform his promise.

Did you, in consequence of your communication with Colonel Browne, make any further application to Vimercati for any more money?—Colonel Brown told me to call again on the following day on advocate Vimercati, who would give me something.

Did you call on Vimercati?—I did.

Did you receive any more money from him?—I did.

Where does Vimercati live at Milan?—He lives in the street of the Crucifisso.

Did he live at the same place at the time you took the papers to him?—Not the first time.

Name the other place at which he lived when you took papers to him?—The first time he was living in the street Ruga Bella, and then he went to live in the street of Crucifisso.

Do you know the number at which he lived in Ruga Bella?—It was in a lane, a narrow street.

Where did Colonel Browne live at the time you applied to him?—Below the bridge of the eastern gate *(Porta Orientale)*.

Do you know the number?—I do not.

Do you know to what subject the papers you took to Vimercati related?—I know the subject of some of them.

State to what subject those related of which you knew the contents?—One was a deposition of a femme de chambre *(Camerier)*, who had been sent to Vienna together with Sacchi.

To what subject did the papers relate?—They were letters.

Were there any examination of witnesses?—Not among the letters; they were letters of her Royal Highness and the Baron and others.

What other papers were there besides the letters?—There were some copies of the advocate Codazzi, who had answered.

Answers to what?—The answers of Codazzi to Bergami.

Were there any other papers than letters and copies of letters?—No.

Do you know to what subject those letters related?—Of some of them.

State them?—One was of Bergami.

What was the subject of those letters: were they on the subject of this inquiry?—The advocate Vimercati told me to bring to him those letters which treated of depositions; that is, which desired somebody to come and give evidence.

Did you, in point of fact, carry papers relating to that subject to Vimercati?—Letters, not papers.

Do you know a man of the name of Riganti?—I do.

Did Riganti ever make any application to you about papers?—He has been at my house to ask for them.

Did you tell Vimercati of Riganti's application for papers?—I did.

What did Vimercati say upon the subject of Riganti's application for papers?—I did not know Riganti, and I asked Vimercati who he was, and he told me that he was a person of character, and that I might give him any papers.

What did Riganti ask you to do with the papers you have spoken of?—To give them to him, and he would give me a great deal—much.

What papers did Riganti wish you to give to him?—Papers respecting the affairs of her Royal Highness.

What affairs of her Royal Highness?—Those which are now in England.

What subject did they relate to?—He told me nothing else.

Did Riganti know in whose employ you were?—He

knew it, for he came to my house. Riganti came after me, and asked for the secretary of Codazzi, for I was the secretary of Codazzi.

Did Vimercati say anything farther as to the employment of Riganti?—He told me that he was a person of character; he told me nothing else.

When did you first disclose to Codazzzi that you had taken those papers?—On the 27th of July.

By a Lord.—In what year?—This year.

Mr. Wilde.—Do you mean the year 1820?—Yes, 1820.

Do you mean to say this was the first time you told Codazzi of the circumstance?—It was.

You have said that you do not know the number of Colonel Browne's house; describe the house, and what premises are about it, whether it is a private shop, or a house, or what?—It is a house.

Is there any business carried on at the house, any goods sold there?—There is a shop on both sides of the door.

What sort of shop, what goods are sold in the shops on either side?—On the left there is a tailor's and on the right a dealer in alabaster.

What business does Riganti carry on?—He sells tobacco and salt.

Can you state whether there are any shops next to Riganti's house?—There are.

What are they?—I do not know, for I seldom pass that way.

Cross-examined by *Mr. Solicitor-General.*

How long have you lived with Codazzi?—A year and a half.

Have you acted as his clerk all that time?—Always.

Down to the present time?—Till the 27th of July.

Did Codazzi turn you out of his service on the 27th of July?—He did.

Have you ever been in his employment since?—No.

Do you mean to swear, that from the 27th of July down to the present time, you have never been in the employ of Codazzi?—I can swear it a thousand times.

With whom did you come over to this country?—With the Chevalier Vassali.

Did you come over alone with Vassali, or whom else?—There was another person.

Who was that other person?—A certain Lago Maggiore.

After you had left the service of Codazzi, did you enter into the service of the Chevalier Vassali?—I did not.

Did you not come over to this country as a servant of Vassali?—I did not come in the service of Vassali.

Did you not come over to this country in the character of a servant of Vassali?—No, because he had a servant with him.

Did you never represent yourself, on any occasion, to be a servant of Vassali?—No, never.

Did Vassali never represent you to be his servant in your presence?—Never, never.

When was it you first saw Vimercati?—September the last year.

Can you tell us the day of the month?—I do not know the day.

Can you tell us about the time of the month?—Towards the end.

Did you know Vimercati before?—I did.

Did you go to Vimercati of your own accord, or what led you to go to him?—The employer with whom I was before had some money due to him.

When you went to Vimercati's in the month of September, and towards the end of that month, did you go of your own accord, or what led you to go there?—There was a person who urged me twice to go, and then that person took me himself there.

Did that person tell you what you were to go to Vimercati for?—He told me that I ought to go, because he wished to speak to me, and I should be made a gentleman if I went.

Did he tell you how you were to be made a gentleman if you went?—He told me so much, he told me no more; he told me that he would take me.

Did you know, at that time, that Vimercati was em-

ployed at all in the process about her Royal Highness the Princess of Wales?—When I went I knew it.

Do you mean to say you did not know it until you saw Vimercati; did you not know it at the time when you saw this person?—I knew it.

You knew it when you saw this person?—What person?

You have told us that you saw a person twice, who desired you to go to Vimercati; at the time you saw that person, did you know that Vimercati was employed in the process about her Royal Highness?—I knew it.

Was Codazzi at that time employed for her Royal Highness?—He was not employed on the affairs of her Royal Highness in England, but for the affairs that her Royal Highness had in Italy.

Did you know that Codazzi was in possession of papers belonging to her Royal Highness?—I had them in my own writing table.

Did you not then immediately, as an honest man, communicate to your master, Codazzi, that you had received this message to go to Vimercati?—I did not.

Did you not conceive it to be your duty to do so?—I thought that I could produce no prejudice, no mischief; that I could do no harm.

Do you mean to say, that you thought you could do no harm in delivering over to Vimercati papers belonging to her Royal Highness; the letters and other documents you have mentioned?—Documents I did not give, I gave letters.

Do you mean to say, that you thought you could do no harm in handing over letters of her Royal Highness to Vimercati, without the consent of your master Codazzi?—Yes, I thought to do no harm.

Did you not think it your duty to tell your master, Codazzi, in order that he might judge for himself, whether or not it would do harm?—I did not tell him.

Did you not conceive it your duty to tell him?—I believed it was nothing.

Do you mean by that to say, that you did not think it was your duty to communicate this to your master?—I thought it was my duty, but I neglected it.

Have the goodness to tell us who this person was that called upon you twice in the manner yon have described? —I do not know the person: if I knew him I would tell.

Where did you see him the first time?—In the street of San Vittor, near the theatre.

Did you meet him by accident?—By accident; I did not know him, nor do I know him; he stopped me.

When he told you to go to Vimercati, you being the servant of Codazzi, did you not ask him what his name was and who he was?—I asked him, and he told me that it was no business of mine to know it.

When was it that you saw him the second time?—On the following day.

Did you meet him by accident the second day?—Yes, in the same place, in the same street.

Did you meet him by accident the second day?—Yes, I was coming from the office.

Was it the same hour the second day?—The same hour.

Did he repeat the same question to you the second time?—He asked me also, whether I had thought upon what he told me the day before.

What did you tell him in answer to that?—That I had thought upon it, and I would not go.

Did you meet him a third time?—No, I went then, this second time.

After telling him you would not go, you in point of fact, did go?—Yes.

Did you ask him his name the second time, when he urged you so much to go?—He would not tell me even then; I asked him.

Did you go alone, or did you go with him?—He took me as far as his door.

Have you ever seen this man at any time since?—I have seen him since, but I could not see him clearly in the face.

Had you no curiosity to know who he was?—How could I know it.

Had you no curiosity or wish to know who he was?—If I could have known it, certainly.

Did you follow him for that purpose, when you met

him the third time, or any of the former times?—On the second time.

Where did you follow him to the second time?—As far as the door of advocate Vimercati he took me, and then he went away.

Had you any papers in your pocket at that time?—On the following day I brought the papers; then I had none.

Did you ever meet this man by accident again?—I did meet him, but I could not see him in the face.

Only once?—Only once.

Did you speak to him?—I did not see him in the face; I could not speak to him.

Was he a young man or an old man?—Middle-aged.

Of what complexion, light or dark?—Black hair.

A stout man, or how?—A little stout.

How was he dressed?—I am not a painter, to draw his picture.

How was he dressed?—I do not remember, I do not know.

Do you mean by that, that you do not know, or that you do not remember?—I do not remember how he was dressed; he was in a coat, but I do not remember the color of the coat.

Has anybody told you that when you came here to be examined at the bar, you were to be careful not to say "non mi recordo?"—I have heard it said about the town; and I have asked what was this non mi recordo.

Has not Chevalier Vassali told you to be particularly careful not to say non mi recordo?—No; he told me nothing; nobody has told me any thing.

Has nobody told you that you ought to be careful, to say rather "non mi sovviene," or "non so?"—I know it by myself, without being told by anybody.

Did Vimercati pay you any thing for the papers you delivered the first time?—He gave me three double golden Napoleons, and he told me that they were for me to take chocolate.

When was it that you carried the second parcel of papers to Vimercati?—After the month of September.

Tell us, as nearly as you can, how long it was after

the first parcel was delivered, that you carried the second parcel?—Three or four days.

What did Vimercati pay you for the second parcel?—Four single Napoleons.

Did you go the second time in consequence of being sent for, or what led you to go?—I went by my own accord.

When was it you carried the third parcel?—In the month of October.

About what time in the month of October?—I am not able to recollect the day; I know it was in the month of October.

Was it in the beginning, the middle, or the latter end of October?—In the month of October; I do not remember whether it was in the beginning, the middle, or the end; I know it was in the month of October.

Did you get paid for the third parcel?—He paid me at another time.

When was it you carried the fourth parcel?—I carried him papers as far as the latter end of November.

When was it you carried him papers the fourth time?—I do not remember whether it was in the month of October or November.

Did you carry many papers?—Some letters.

Having carried those papers from time to time during this long period, and having been paid by Vimercati, did you ever communicate the circumstance to your master?—I never said any thing to Codazzi.

Do you mean to say that, from the month of September to the month of July in the following year, Codazzi never spoke about those papers to you?—Never.

Did Codazzi never miss any of those papers?—No.

Did he ever ask for them upon any occasion?—No.

You have said that those papers were left in your charge and custody; were you a confidential clerk of Codazzi?—Confidential clerk.

Being the confidential clerk of Codazzi, did you not think you were acting a most infamous part in selling his letters to the advocate Vimercati?—Not at the beginning.

As the beginning was in the latter end of September,

1819, how long was it before this light broke in upon your understanding?

The Solicitor General of the Queen objected to the question.

You have stated that you did not at first consider that this conduct was most infamous; when was it you did first discover, if you ever did discover, that this conduct was most base and infamous?—About the beginning of this year.

Was it a discovery of your own, about the commencement of the present year, that your conduct was base and infamous, or were you told it by any other person?—There are many who act basely and infamously, but then afterwards they repent, and so have I.

You having discovered, at the commencement of the present year, that this conduct was base and infamous, did you not think it your duty to communicate it to Codazzi?—I thought it better to be silent.

Having not only discovered that the conduct was base and infamous, but having already sworn that you repented of it, did you not think that the best thing you could do, as the fruit of that repentance, was to communicate it to Codazzi, in order that the evil might be repaired?—I could not foresee all these things.

You have told us, that at the beginning of the year it was that you repented; when was it that you carried the last parcel of papers to Vimercati?—I do not remember whether it was in the end of November or the beginning of December.

Is it to be understood that you never carried any papers after the end of November, or the beginning of December, to Vimercati?—Before I swear, allow me to think a little: in the month of July, when I went to ask about the name of the person who had called at my house, he asked me about the list of the persons who came in favor of her Royal Highness, and I gave him the list.

Did you call on Vimercati in the month of July last?—Yes, to tell him that this person had called.

Was that the same person whom you had before met by accident in the street, that called upon you?—No,

the first person I did not know; but the person who came in the month of July was Riganti.

Did you give any papers at that time?—I gave him a list of the persons who were going to set out.

Was that by the desire of Signor Codazzi?—No.

Do you mean to say that that was a list of the witnesses that were to set out on behalf of her Royal Highness?—They were not all witnesses, I did not give the list of all the witnesses.

How many of the witnesses did it contain?

The Solicitor General of the Queen submitted, that Mr. Solicitor General could not examine to the contents of a written paper, stated by the witness to have been delivered to one of the agents in support of the bill.

Are you to be understood to say, you did not communicate to Codazzi that you had given this list?—I did not tell this.

Having repented of what you had done as early as the beginning of the year, you afterwards in July delivered to Vimercati a list of the witnesses coming on behalf of the Queen?—They were five or six; I wrote them, I gave their names myself.

Did Vimercati pay you any thing for that last intelligence?—No; I gave him this list to find out who was the person who had called at my house, this Riganti.

Did Riganti pay you any thing for this list?—I did not give the list to Riganti, but to the advocate Vimercati.

How long was it after you had delivered this list to the advocate Vimercati that your master Codazzi knew of it?—On the same day that I told it to the advocate Codazzi, on that same day I gave this same list to the advocate Vimercati.

With the exception of this list, of which you have now made mention, did you deliver any other papers to the advocate Vimercati after the month of December in the year 1819?—No, except the list in the month of July.

Will you swear that positively, at this moment?—I will swear it a thousand times.

Did you after that offer any papers to Vimercati?—I never called on Vimercati till Easter, when Colonel Brown sent me.

You have told us that Vimercati paid you for those papers; did Vimercati pay you for those papers at the time when the papers were delivered?—He did in the beginning, not afterwards.

When was it that Vimercati made you the last payment?—When Colonel Brown sent me, toward the end of March of this year.

How long before that period, the end of March, was it that you received any money from Vimercati?—The end of November.

So that, from the end of November to the end of March, you never received any money from Vimercati?—Nothing.

Are you perfectly sure of it, and will you swear it?—I will swear it a hundred times.

What was the sum you last received from Vimercati at the end of March?—Fifty-two livres and a half of Milan.

Are you quite sure that that was at the end of March?—I am.

Did you ever, upon any occasion, state that you had received money from Vimercati for papers, in the month of February of this year?—No, I never took anything.

You are not asked whether you took anything in the month of February, but whether you have never stated that you took any in the month of February?—I have not said it, and I never called; for, from the beginning of December till the end of March, I never called.

Will you swear you have never said it?—Yes, I swear it.

Will you swear you have never in any way so represented it?

Mr. Wilde objected to the question, unless it was stated that the question did not refer to a statement in writing.

Did you not call on Colonel Browne with a bundle of papers?—I had two or three letters to make myself known.

Did you not, when you called on Colonel Browne, ask him whether he was not one of the commissioners appointed to inquire into the conduct of her Royal Highness?—I knew it.

Did you not introduce yourself to Colonel Browne by taking a bundle of letters from your pocket, and asking Colonel Browne whether he was not one of the commissioners appointed to inquire into the conduct of her Royal Highness ?—I called, and I took out two or three letters.

Did you not deliver those letters to Colonel Browne, saying, "Are you not one of the commissioners appointed to inquire into the conduct of her Royal Highness ?—I showed him the letter to make myself known, and I complained of the advocate Vimercati, who, after having seduced me, had paid me little.

Having stated that, upon taking these letters out of your pocket, did you not ask Colonel Browne, whether he was one of the commissioners employed to inquire into the conduct of her Royal Highness ? — Yes, I asked him so, but I knew it.

Did not Colonel Browne ask you what your name was, and who you were ?—I made myself known by telling him that I was the confidential clerk of the advocate Codazzi.

Did you tell Colonel Browne that you were the confidential clerk of Codazzi, when you first went into the room ?—At the first I asked him, whether he was Colonel Browne, for I knew him not.

After you had asked him whether he was Colonel Browne, did not Colonel Browne ask you who you were ? —He answered me yes ; he did not ask me who I was.

Will you swear that Colonel Browne did not ask you who you were, and that you did not refuse to tell him ?— He did nor ask me who I was, but I told him of myself.

Will you swear that Colonel Browne did not ask you who you were, and that you did not refuse to tell ; upon which Colonel Browne shut the door, and said you should not leave the room without informing him (Colonel Browne) who you were ?—I swear this not to be true.

In answer to a question put by Colonel Browne, did you not say you were clerk to the advocate Codazzi, and did not Colonel Browne then give you back instantly the two letters you had delivered to him, and tell you he thought you a most infamous scoundrel, and that

you would end by being hanged?—He will be hanged, not I, for I have not said so.

Mr. Cohen stated that he concurred in this being the answer the witness gave.

In answer to a question put by Colonel Browne, did you not say that you were clerk to the advocate Codazzi, and did not Col. Browne then give you back instantly the two letters you had delivered to him, and tell you he thought you were a most infamous scoundrel, and that you would end by being hanged?—I repeat again that it is not true; he gave me the letters, but he said no more: nay, he shut the door of the room in order that we should not be heard, and he told me to speak not so loud, because I complained of the advocate Vimercati; and he told me to call the next day on the advocate Vimercati, from whom he would cause me to receive two hundred francs. This is what he told me, nothing else, and that the advocate Vimercati is a person of character, and that he would keep his promise.

Did he not when he shut the door, say you should not go out of the room until you told him who you were?—He is a liar, if he says so.

Do you mean to swear that Colonel Browne did not say so?—Yes, I swear it; he told me what I have just said.

Did not Colonel Browne say you were a most infamous fellow at that meeting?—I have repeated it many times he did not say so.

Did he not say you would end by being hanged?—He never told me so.

Did he say anything to that effect?—Nothing at all, for I had been seduced by them, and they are more infamous than I am.

Did you call on Colonel Browne more than once?—I called the first time in the morning; he was not at home, then after dinner I called and found him; I have been twice.

Did you see him more than once?—Afterwards I saw him many times through Milan.

Did you ever see him more than once at his own house?—At his own house only once.

When was that once that you saw him at his own house?—About the end of March of this year.

What were the papers which you carried to Colonel Browne at this time?—Two or three letters.

When you called on Vimercati the first time, did you tell Vimercati who you were?—He knew me.

Did not Vimercati ask you who you were, and did you not refuse to tell?—He did not ask me, because he knew me immediately, and because a person whom I did not know took me as far as to his door.

You mean to swear that Vimercati did not ask you who you were, and that you did not refuse to tell him who you were the first time?—Yes, I swear it is not true.

Did you not live at that time upon the terrace of the Porta Tosa?—No, I lived then at Contrada Larga.

Is that the place where Codazzi lives?—No, where I live.

Did you ever live at the Terragio di Porta Tosa?—At present I live on the Terragio of Porta Tosa.

When did you first go to live there?—On the 29th of September of last year.

Have you lived there from that time to the present?—Yes.

Having stated that for two or three months you did not know it was infamous to betray the confidence of your master, do you consider it infamous to say, upon your oath, that which is untrue?

The following extract was read from the evidence of the witness:

"You have stated, that you did not at first consider that this conduct was most infamous; when was it you did first discover, if you ever did discover, that this conduct was most base and infamous?—About the beginning of this year."

The Solicitor General of the Queen objected to the question, as not being a correct recital of the evidence of the witness.

Having discovered for the first time in the month of January that your conduct was base and infamous, do you consider it infamous to say, on your oath, that which

is untrue ?—To swear the truth is just, what is true I swear, and what I have stated I am ready to swear to.

Did you communicate those facts to Codazzi of your own motion ?—I told him on the 27th of July.

Upon your telling him on the 27th of July those facts, do you mean to swear that your master immediately dismissed you ?—Yes.

Whom have you been living with since, from that time down to the present ?—I am in trade.

What trade ? — I buy and sell woolen cloth for dresses.

Did you ever carry on that business before ?—Yes.

Do you swear that you have no expectation of returning into the service of Codazzi after this business is over ?—I swear it, because I am in trade.

Who brought you over here ?—Chevalier Vassali.

What are you to have for coming here ?—I will receive nothing ; I came here to remedy the evil I had committed, and to tell the truth.

You mean to swear that is the only reason of your coming here, and that you do not expect any reward from any person ?—I swear it, that being able to return quick home.

Do you mean to swear that nobody made you a promise of any thing for coming here ?—I swear it ; they have promised me nothing.

And that it is entirely for the purpose of remedying the evil you have occasioned that you have come here ; do you mean to swear that ?—I do.

And no other motive whatever ?—Nothing else.

Have you had any communication with Codazzi since you have been turned out of his service ?—No, because I went into the country.

Did Codazzi never send for you ?—Never.

Is Codazzi still employed for her Royal Highness ?—I do not know.

You mean to swear, that you have neither seen nor had any communication with Codazzi since the month of July ?—I swear it a hundred thousand times.

Where do you carry on your trade ?—I carry it on at home.

Where is that ?—In Porta Tosa.

Is that in Milan ?—In Milan.

How far from Codazzi's ?—Much distance.

What do you mean by much distance, is it a mile ?—Oh yes, more than a mile.

Have you lived in Milan from the month of July down to the time of your coming here ?—I always live at Milan, but from the month of July I have been a few days in the country.

Whereabout in the country ?—On the territory of Lodi.

Except those few days, have you been in Milan ever since the month of July ?—Yes.

You mean to swear, that though you have been in Milan during the whole of that time, Codazzi has not called upon you or seen you ?—I have seen him ; I have bowed to him, and nothing else ; but I have not spoken to him.

Where did you see him ?—On the Corso of the Porta Ticinese.

How long was that after you left his service in July ?—About a month.

Was Codazzi still concerned for her Royal Highness when you left his service in July ?—He was.

Do you mean to swear, that though Codazzi met you in Milan, he did not speak to you upon any subject at all ?—I swear it an hundred thousand times.

Were you not examined at Milan before you came here ?—They have asked me a very few things.

Why was it they examined you ?—Because I had put in writing my deposition, and given it to Codazzi on the 27th of July.

Were you examined by Codazzi on the 27th of July ?—I, by my own accord, told him the whole story.

And Codazzi took it down in writing ?—I wrote it with my own hand.

Do you mean to swear, that after you had done that, Codazzi turned you out of his service ?—I do.

Did not Codazzi at that time tell you, "you must go out of my service now, and I will take you into my service again, for it will not do for you to be in my service till the process is over ?"—No, because in the office of Codazzi I get nothing, and I by my trade gain.

Did you leave the service of Codazzi in order that you might gain by your trade, or were you turned out of the office ?—He sent me away.

Did you know on the 27th of July that you should gain any thing by your trade ?—Yes.

Why so ?—Because I was still carrying on the trade whilst I was in the office of the advocate Codazzi.

How came you carrying on trade, and getting money by it, to go into the office of Codazzi, and remain there for a year, where you say you got nothing ?—It was for the sake of learning to write well.

Will you swear now that you have no expectation of returning into the service of Codazzi ?—I have no expectation, I have no hope, because I am in trade, and that suits me better.

Re-examined by *Mr. Wilde.*

How old are you ?—Twenty-two years old.

You have been asked whether Colonel Browne told you you were an infamous fellow ; was it after your interview with Colonel Browne that you received money from Vimercati ?—On the following day.

How much in the whole did you receive from Vimercati ?—Between three hundred and fifty and four hundred francs.

The witness was directed to withdraw.

Filippo Pomi was again called in, and further examined by Mr. Tindal.

"Do you know a person of the name of Riganti ?—I do.

Do you know whether his name is Filippo ?—I do, he is Filippo.

Where does he live ?—On the bank of Porta Ticinese.

What is he by trade ?—He sells tobacco, salt, liquors, brandy.

Do you recollect his calling on you at any time ?—He did not call upon me ; but when I went into his shop, he always had something to say to me.

Did he never make you any offer ?

Mr. Attorney General submitted, whether, as the evi-

dence stood, it was [illegible] the Bill to go [illegible] it to the H[illegible] fit to proceed [illegible]

The [illegible] made by the [illegible] might be asked.

Mr. Tindal.—[illegible] do?—I [illegible] told me, [illegible] have you [illegible] Princess [illegible] ward [illegible]

Did he say [illegible] told me [illegible] scherzo [illegible] put his [illegible]

[illegible] that this [illegible] he paid [illegible] due [illegible]

Was [illegible]

[illegible]

[illegible]

her till death; and then there were other persons present, there were five or six persons present.

Be good enough to name the names of the persons, or any of them, that were present when this conversation took place?—I could name Antonio Birraghi who was present; I remember he was present, the others I cannot tell; I know them, but I do not know their names.

Who is Antonio Birraghi?—He is a man who always frequented this shop.

Where does he live?—In Milan.

In what part of Milan?—I do not know; I know he lives in Milan; he is a man of that description, I know his name.

Can you tell what he is?—I do not know whether he is employed in the police, or whether he is employed somewhere else; I do not know precisely.

Antonio Birraghi heard this conversation as well as you?—He did not speak to me directly, he spoke to all in general, to all those who were present, and this conversation he had not with me only.

This conversation was generally with the persons in his shop?—Yes, with whomsoever was present.

You say you know some of the other persons, cannot you remember the names of some of the other persons besides Antonio Birraghi?—It is impossible, for those names cannot be recollected, unless I had known that this affair should happen; then I should have paid more attention, and that would have more fixed them in my mind.

This sort of conversation, you state, took place frequently, when you went to Riganti's shop?—Yes, about four or five times, as I have said; when I have heard of those annoyances, so as I have said, I was obliged not to go any more to his shop to buy salt or tobacco, or any thing else.

Did you go there to buy those things for yourself or were they for the people at the Barona?—For my own use, because I wanted them.

Was Birraghi present more than once, or only on one occasion?—I cannot tell; he frequented the shop; he might have been there or he might not have been there; for that once I remember that he was present.

Is what you have stated all that passed on those occasions; did you yourself say any thing more than what you have stated?—I can say nothing more; I said that against that lady I can say nothing, for she is a just woman, and she is a charitable woman.

Examined by the Lords.

Were you yourself present at the balls at the Barona?—Yes, I told it the other day that I was present.

Were your daughters there?—No, because I had not daughters.

How came you to say, the other day, the sum that they gave was a livre to my wife and half a livre for each of my children, daughters?—I said Figli and Figlie, because my eldest son is nine years and the others are under that age; I have daughters, but they are babies under nine years of age.

The witness was directed to withdraw.

Antonio Mioni was then called in, and having been sworn, was examined as follows by Mr. Williams, through the interpretation of the Marchese di Spineto.

From what place do you come?—From Venice.

What business do you follow there?—Before I was employed in the police; now I am a manager of a theatre.

At Venice?—At Venice, wherever I meet with opportunity.

Do you know a person of the name of Paolo Zancla?—I do.

What is he?—He is a manager of a theatre.

Were you acquainted with that man in the month of March, in the year 1818?—I was.

Do you remember being at the theatre at Venice with that Zancla in that year?—In the theatre of San Luca.

In what month?—In the month of November.

At that time do you remember Zancla receiving any number of letters, one or more?—He received two letters at once.

Did you observe whether Zancla opened those letters

or not?—I saw him open them, and emotion or surprise after he had read them.

Did you observe that he exhibited emotion or surprise when he read those letters?—Yes, it is very true.

After that, did you and Zancla go together from Venice to Milan?—We set out from Venice and went to Milan.

How soon after the receipt of those letters?—Five or six days, or seven days, thereabouts.

How did you go, by what conveyance?—By a diligence led by Doria.

When you arrived at the place from whence the diligence set out, was there any money deposited there for the use of Zancla?—On the following day that Zancla had received his letters, we went together to the place of the diligence; I saw Zancla receive 15 golden Napoleons.

When you had arrived at Milan, do you remember going with Zancla to a house in the Porta Orientale?—I remember that we went to the Porta Orientale, to look for the number 660.

Do you remember the adjoining houses on either side, can you describe them by the trades carried on by the people, or in any other manner?—Before reaching the door of 660, there is a tailor's shop.

Is that an adjoining house on the one side?—Yes.

Do you at all recollect what is the description of the house on the other side?—I have paid no attention to that; only I paid attention to the tailor's shop, because there we inquired after the number of the door.

Did Zancla go into that house, No. 660?—He went in.

Did you go up or remain below?—I remained below.

How long did Zancla remain away?—About a quarter of an hour.

Did you wait for Zancla till he came down?—Yes.

Did you and Zancla go together to the inn after you had called there?—We did.

While you remained at Milan, do you remember going with Zancla to any other house?—To the house of Vimercati.

Do you speak of Vimercati the lawyer or advocate?—I do.

What is the street, do you remember?—The street Ruga Bella.

Upon that occasion did Zancla go up stairs?—Zancla went into the house and remained about an hour and a half, but this happened on the following day.

Did you remain below during the time?—Yes.

At the end of the time you have mentioned, did Zancla join you again?—Yes, and there was another man in company.

After that did you and Zancla go again to any other house?—To the house of Major Brown.

Do you say that it was Major Brown?—Major Brown.

Do you know a Colonel Brown, as well as a Major Brown; do you know two persons of that name?—No, I know one alone; I do not know whether he is a major or a colonel, I have not seen his brevet.

Do you know the person you call Major Brown?—I saw him on the following day on the Corso de Servi, where he met Zancla and bowed to him, and Zancla told me he was Major Brown.

Did you at that time observe whether Zancla and the major or the colonel spoke to each other?—They did not speak to each other.

Did they move to each other?—They bowed to each other, and each went their own way.

What was the street in which Major Brown lived?—At the Porta Orientale.

Was the house of which you are speaking, to which you went upon this occasion with Zancla, No. 660, Porta Orientale?—Yes, it was.

Upon this latter occasion that has been spoken of, did Zancla go up stairs?—On the evening that we arrived do you mean?

On the last occasion that has been spoken of?—Yes, he went up stairs.

Did you go up stairs with him?—I remained below.

How long did Zancla remain above?—A quarter of an hour.

When he came down again, did you see whether he had anything with him?—He had a handful of double gold Napoleons.

To the best of your judgment and recollection, how

many double Napoleons might there have been?—He told me 80; but at seeing them, I believe there must have been as many.

Did they in fact appear as many as that?—They appeared to be really 80.

Do you mean 80 pieces, or 40 double Napoleons?—Eighty double Napoleons.

What did he say to you at that time?

The Attorney-General objected to this question, and said that at present there was not the slightest pretence for asking the House to admit evidence so irregular as the conversation, whatever it might be, between Zancla and the witness of what passed between the former and the person with whom he had been. As the case now stood, there was nothing whatever to show that Zancla was either the agent of Colonel Brown or Vimercati.

Mr. Williams contended, that in point of law the question was perfectly admissible. The evidence for which he called fell within the ordinary rule of declarations accompanying the act, but he did not mean to rest on that.

The Solicitor-General denied that they came within any such rule.

Mr. Williams renewed his argument, and contended that the question ought to be put. Suppose the witness were to say that he was told to make depositions against the Queen, whether true or not, and to receive for them valuable considerations; suppose this should appear to be the declaration made by Zancla to the witness—

The Attorney-General here interrupted Mr. Williams, and objected to his learned friend's arguing on any such declaration, which, in this stage of the proceeding, was perfectly inadmissible.

Mr. Williams said, in reply, that the judges, in delivering their opinion this day, had said that on a trial for a conspiracy it was competent for the party to begin at whatever end of that conspiracy they thought proper. The usual practice, they said, was to begin with evidence of a general nature, showing the existence of the conspiracy, and then to adduce the details, bringing it home to individuals. His object now was to show that an opinion prevailed in Italy, that if witnesses came for-

ward against the Queen, whether right or wrong was their testimony, they would be profitably rewarded. He had here shown that one witness had received a letter, in consequence of which he had gone to Colonel Brown, and that when he came down from that person he had a handful of money, which he showed to the witness, who is now ready to prove the fact. This was only a step in the cause, it was true; but how else but by steps were they to unravel the conspiracy? How else was he to prove it, except by showing the parts of which it consisted?

Mr. Tindal followed on the same side. An agency was to be proved in several ways, both by direct proof, and by reference. It was in a variety of instances only to be proved by the latter. Suppose, for instance, a charge of bribery was brought against a candidate at an election, how rarely in the first instance could evidence be obtained directly to affect the agent? The only way to ascertain the fact was to trace his conduct by his acts, to find out the individual by it, and then trace the bribe to the party giving it; that was the course they were taking here. They saw a person go from Venice to Milan, who found a larger sum than the wants of the journey demanded waiting for him at the diligence-office. The moment he arrives at Milan he calls on Colonel Brown; he then goes to Vimercati, returns again to Brown, and on coming down stairs shows to his friend the handful of Napoleons, producing them as the sum he was to get for his evidence. If this was not bribery, he was at a loss to know what bribery was. Was it not to be inferred from substantive facts, which clearly showed the existence of conspiracy? From separate facts, like that he had stated, the case of bribery was to be made out. In the case of the King *v.* Stone, evidence of a letter was admitted—a letter not written by Stone, nor was there any proof he had ever seen it; but it was still admitted, because, as there were several concerned in one common design, it was held that the letter was evidence against all. Their lordships were, he contended, bound to admit the question to be put to this witness.

The Attorney-General, in reply, entreated the House

to pause before it admitted this evidence, and see the importance of adhering to the ordinary rule of law, which was fatal to the admissibility of this question. They had now heard that they were to be called upon to admit as evidence in this cause the prevalent reports which might have been circulated in Italy, because it was possible they might have made an impression on the minds of the witnesses. The House might now clearly see the extent to which the other side wished evidence to be received. No man could in future be safe if it were allowed; and it was his (the Attorney-General's) duty to object to it, when the object was to substantiate so foul, so heinous, a crime. It was admitted by the counsel for the Queen that they had not yet laid even the foundation for this species of testimony, and they claimed credit for connecting it with the case hereafter. But persons were to be presumed innocent rather than guilty, and the House was bound so to consider Vimercati and Colonel Brown until, by distinct legal evidence, and not by vague declaration, they were shown to be otherwise. Why, at all events, did not his learned friends call Zancla? His agency must be proved before his declarations could affect any of the parties, and that agency could be established only by acts, and those acts must be adopted by the principal. Here nothing was attempted to be proved but the declaration of Zancla, in order to show that he was the agent of Colonel Brown and Vimercati. If the House let in this evidence, they must go still further—it must receive all the prevalent rumors and opinions existing at the time in Italy, because by possibility they might have had some influence on the mind of the witness at the bar. If this had been an indictment, it would have been the duty of counsel to take the objection, and in this proceeding it was no less his duty to do so because a false impression might be produced—the statement of what could be proved might go forth to the world with nearly the same effect as the actual evidence. Colonel Brown and Vimercati ought not to be convicted upon mere suspicion and inference. What the witness had already stated amounted to nothing. He most earnestly entreated their lordships, before they decided to receive the evi-

dence, and thereby to deviate so widely from all the established rules of evidence, to consider that the inquiry in that case must be interminable; it had been avowed by the counsel for the Queen that they should bring forward testimony to all the rumors and speculations afloat in Italy, and if they were allowed to go to this extent there was no safety in future for the life, character, and property of any man. A flood-gate would be opened to testimony such as had never been brought forward in any case since the beginning of time. The hypothesis was, that at some time or other Zancla would be connected with the supposed parties to this conspiracy; but the accused had a right to demand that the connexion should be established in the first instance. The objection he had urged was not merely technical, it went to the very foundations of truth and justice, and depended upon rules of law that to this day had been held sacred.

Mr. Brougham said that he had no right to reply; he only wished to explain.

The Attorney-General.—I object, my lords, to this explanation.

Mr. Brougham.—I only beg to say that we do not attack Colonel Brown. (Order, order.)

The Lord-Chancellor said that three grounds had been urged for receiving this evidence:—1st, That testimony might be given of general impressions abroad; but this was the first time his lordship had ever heard of such testimony being offered. Secondly, it was asserted that agency had been established. He could not conceive on what ground the declarations of Zancla, when he came down stairs to the witness, could be admitted as the proof of what had passed up stairs. If this were to be proved, at all events it must be proved by Zancla himself, unless the rule that the best evidence that could be obtained should be adduced were completely reversed. The third point urged was, that this might in the result turn out to be evidence of a conspiracy; but here again his lordship knew of no case where such had been allowed, and where it was not required that the party producing the evidence should connect it more immediately with the charge. For these reasons he thought

that the objection urged by the Attorney-General ought to prevail.

Lord Erskine entertained some considerable doubts upon the subject. He agreed that this question ought to be viewed as if the objection had been taken on an indictment; and he admitted also that before such evidence could be entered upon, counsel ought to explain its object, and to state what he intended to attempt by the production of the witness. If the proof failed, no party would be affected by it. It was asked if this were a connected chain of testimony? It might be so, but as yet the House only saw one of the links which hereafter might be connected, and closely connected with Colonel Brown and Vimercati. The question here was, whether the declaration and explanation on the part of counsel had been sufficient to bring the case within the decision of the judges. His lordship then referred at some length, and in a low tone of voice, to what had occurred on the trial of Hardy, in 1794: he mentioned various circumstances connected with that proceeding, in order to show that the Attorney-General of that day, the Lord-Chancellor of this, had been allowed to state what he should be able to prove against the conspirators, and then to proceed to the proof of it step by step, without, in every instance, showing the precise connexion of the evidence with the parties accused. It had turned out that the prosecutors could not connect the links, at least so the jury found, and a verdict of acquittal was the consequence. The Attorney-General had to-day complained that on such evidence as that offered, a false impression might go forth to the public to the prejudice of Colonel Brown and Vimercati; but when men were on trial for their lives no such objection was allowed; the evidence was allowed to weigh what it was worth for the time, and if it were not brought home to the party, a verdict in his favor was the consequence. His lordship did not see why a different rule ought to prevail in this case. If a conspiracy existed to defame and degrade the Queen, before it was proved, some opening ought to be made at the bar, and the question, as he had observed, in this case, was, whether the

explanation that had been given fell within the opinion given by the judges.

The Lord-Chancellor observed, that in his view this point required much consideration, though he was quite satisfied, if his noble and learned friend looked again at the case to which he had referred, he would entertain more doubt than he had expressed. The effect of the cases of Hardy, Stone, and others, had been collected in Mr. Phillips' work on evidence, which did the learned author so much credit, where it was distinctly laid down, that the separate declarations of conspirators rendered the whole responsible ; but then they must first be shown to be conspirators, and their declarations must be proved according to the regular forms of law. Hardy's trial had occurred so long ago, that until he refreshed his memory regarding it last night, he (the Lord-Chancellor) had forgotten nearly all the circumstances, excepting that he made a very tedious speech, which very nearly killed himself and quite sickened his hearers. Having referred to it, however, he found that the position taken by his noble and learned friend (Lord Erskine) was by no means borne out. If A. B. and C. D. were both proved to be parties to a conspiracy, then E. F. might be examined as to the declarations of C. D., which would also affect A. B., but the testimony of E. F. could not be received until C. D. was shown to be connected with the conspiracy. Here, if Colonel Brown and Zancla were proved to be conspirators, the last witness might give evidence of the declarations of Zancla, but not until Zancla were proved to be connected with Colonel Brown. His lordship here examined a part of the evidence on the point of conspiracy in Hardy's trial, referring particularly to certain letters from Martin to Margarot, and to the opinion of Mr. Justice Buller. Here there was no evidence to connect Zancla with Colonel Brown, though Riganti and Vimercati stood upon different grounds. On the whole, therefore, his lordship felt satisfied that the question proposed could not be put to the witness.

Lord Erskine added, that what the noble and learned lord had selected from Hardy's trial had no reference to the part to which he (Lord Erskine) had alluded.

The Lord-Chancellor begged pardon for interposing; but it might perhaps be as well if his noble and learned friend would take an opportunity of again reading the arguments in that case.

Lord Erskine replied, that he remembered all the main features of the case as well as if they had occurred yesterday. The question was, whether what was now offered to be proved might not hereafter be shown to be a link in a chain of evidence, showing that a conspiracy had existed to suborn witnesses against the Queen. In Hardy's trial, Lord Chief Justice Eyre had allowed the Attorney-General to bring forward evidence of particular facts, on the faith that they would afterwards be combined and united into a series. He (Lord Erskine) did not mean to offer a decided opinion upon this point; but he thought the same liberty ought now to be allowed to the counsel for the Queen.

The Lord-Chancellor had no objection to the opinion of the judges being taken on the subject, and Lord Erskine expressed his assent.

Mr. Brougham said, that the House might remember that he was not allowed to open the nature of the evidence upon this point.

Lord Erskine observed, that counsel ought not only to be permitted to open it, but were required to open it.

The Lord-Chancellor, after exchanging a few words with the judges who sat near him, said, that though it might not be regular, he was authorized to say that the judges entertained no doubt that the evidence ought not to be received.

The Lord-Chancellor then addressed the counsel thus:—"Gentlemen, I am commanded to inform you, that, in the present stage of the proceeding, the question you proposed to ask the witness cannot be put."

Mr. Brougham conceived that the objection to the question had been founded on a mistake as to its object, and wished to know whether the question in another shape, or with a view different from that which the decision of the House supposed, might not now be put. The question now decided he took to be this—that the witness could not be asked what had been said to him

in a conversation with another respecting a third person; that, for instance, he could not ask the witness to state what Zancla had said Colonel Brown told him, as any evidence against Colonel Brown; that any declaration of Colonel Brown made to Zancla could not be proved unless Zancla himself were called, and that Mioni could not be called to prove it; he, Mioni, according to his own statement, not being the person who heard it. This was the nature of the objection which had hastily been taken up against the question by the other side, but no one on his side had ever said that they had a right to ask questions of Mioni, with the view of proving what Brown had said to Zancla. They had never proposed any thing so absurd. The question, with the view they intended to ask it, was therefore one on which no decision had yet been given. If he could show such acting on the part of Zancla himself as would implicate him as a principal in the conspiracy—if, through the examination of Mioni, he could show what Zancla did as a conspirator—then the question put in that way was very different from what it had been conceived to be, and was one against which their lordships had not decided. The witness was called to prove the acts of Zancla in what they (the counsel for the defence) called a conspiracy, the existence of which, according to the opinion given yesterday, they were entitled to prove. Mioni was called to prove acts of Zancla, not of Brown, in the general conspiracy.

The Attorney-General considered this a re-opening of the question which had been decided yesterday.

Mr. Brougham reminded their lordships that they (the Queen's counsel) had not been allowed to put the question to the witness Mioni. The examination had been stopped by the interruption of Mr. Williams, and their lordships had decided against the question on the objection taken by the Attorney-General. The conduct of his learned friends on the other side was very extraordinary; and as for their opinions, they were so slippery that it was quite impossible for him to conjecture what their opinion on any point might be for an hour together. They argued a point with great zeal one day, and gave it up quite unconcernedly the next. They

sometimes talked, too, of not objecting personally to a question. What they meant by not having personally any objection to a question, he really could not understand.

The Attorney-General observed, that no new question had yet been offered. If a question was asked and objected to, it was competent for the counsel who proposed it to argue in support of its fitness, but he never heard it before attempted to enter into an argument before a question was put. If Zancla was to be proved a principal in a conspiracy, that must be done in the regular course; but as yet there was no evidence connecting Zancla with the proceedings.

The Solicitor-General saw no ground for disputing the decision which had been come to on the question. It was true that Mr. Brougham had not personally taken any part in the argument of yesterday; but the question was then argued on the very ground he had now taken. His learned friend had therefore no right to suppose that the case was not decided yesterday. As to the conduct of himself and his learned colleagues in support of the bill, it had not been marked by any of that uncertainty which was attributed to it. Their lordships had ordered them to appear for the bill. They had, at the commencement of the proceedings, declared that they would be guided, with regard to the reception of evidence, by the practice of the courts below. He and his learned friends, therefore, considered it their duty, when a question arose which appeared not proper to be put, to object to it. They stated their objection, and to doing that their duty was limited: if their lordships, however, determined to receive the evidence, he and his colleagues were bound to submit to the decision. This, he believed, would be considered as a sufficient explanation of their conduct.

The Lord-Chancellor wished the counsel for the defence now to state what course they proposed to take.

Mr. Williams said, the objection to the question he had proposed to put to the witness Mioni had been made and acted upon before he had had the opportunity of explaining the view with which he wished to ask it; but that the whole proceeding had been founded in

misconception. He had been prevented from stating what were the words attributed to Zancla, and the whole objection on the other side had nothing to do with the real state of the case.

Lord Erskine could not admit that this was a new and anomalous question. He was ready to admit that the question of getting from Mioni what had fallen from Colonel Brown in his conversation with Zancla, was very properly overruled. But the case now offered was a new case, namely, that of proving Zancla to be an agent in the conspiracy. This they had a right to do, either by beginning with the general evidence, and fixing the acts upon the individual, or by first proving the individual agency. Their lordships were to suppose a case of indictment for conspiracy, and then they would see that the evidence against the conspirators might be taken in any order which should be chosen by the counsel for the prosecution. He denied that a counsel was limited by his opening speech as to the proof of a conspiracy. The conspiracy might come to his knowledge only a moment before he had concluded his defence. Was he then to be excluded from the proof of it merely because the guilt of the prosecutor was not known till late in the proceeding? The question which the learned counsel now wished to ask was, in his opinion, one that ought to be put. If they were prevented from doing this, he would put it as a peer, and their lordships might then overrule it if they pleased. If, on a question like the present, their lordships should think they were not authorized to decide, without first obtaining the opinion of the judges, he thought they ought not to pass any act, not even a common turnpike bill, without availing themselves of the same assistance. No man could feel more respect for the learned judges than he did; they had been the companions of his former years, and he knew how to value their opinions; but he contended that on the present great and important proceeding, their lordships ought not, in every instance, to be governed by the decisions of the judges. He had no objection to their opinion being given; he would rather act in conformity with, than in opposition to it; but the examination proposed by the counsel for

the defence ought to be gone on with; and for himself he must say, that without it, he knew not how to form an opinion on the evidence which had been given before their lordships.

The Lord-Chancellor said, the opinion of a judge, on any particular question, deserved much attention; but no man, as a judge, could hope for such attention, unless he himself showed due respect to the opinion of others. Feeling thus, he thought it his duty to say that, having undoubtedly mistaken Mr. Williams, he regretted the circumstance very much. He had, in conformity with their lordships' commands, stated that the present question could not now be put; but this did not affect any question that might be put in a future stage of the proceedings. It applied only to the present moment. Their lordships had yesterday determined that evidence of what was called this "conspiracy" should be heard. He bowed to that decision; but, humble as was the individual who now had the honor of addressing their lordships, he felt it necessary to state that he entertained a different opinion. It was a painful thing for him so to do. But, however adverse his sentiments might be, no slander and no calumny, come from whomsoever it might, or come from whatsoever quarter it might, should ever prevent him from doing his duty. Their lordships had determined that they would go into this species of evidence; but that determination, he apprehended, went no further than this—that direct evidence should be received; but that, on the ground of an impression, with respect to what was termed the avowed conduct of an individual in procuring agents, a question could not be put. This, however, did not wholly shut out the question now under discussion. Whether that question might not be repeated, with another view, was a matter for the consideration of the learned counsel at the bar, who would be heard in support of it. He had no difficulty in saying, after the recent determination had been come to, that a question of this kind might be put now;—not a question opening as to the probability of a conspiracy; not a question as to what persons would or would not say, if they were called; but a question having a direct

object, the counsel saying, in putting it, "What I am now about to ask goes to such and such a point." Whether their lordships would then suffer the question to be put would remain for their consideration. It was for their lordships to judge whether the question that had been asked constituted a legitimate mode of discovering whether an individual was one of those alleged conspirators. But such a question might be put with quite a different view; and when their lordships heard the question, and understood its object, it would be for them to decide on its propriety. Unless the view which his experience enabled him to take on these subjects had led him into great error, there was as wide a distinction as possible between the evidence that should be received in cases of indictment for conspiracy, and that which their lordships had determined ought to be received. Let not their lordships run away with a false view of the question. Let them look how the question really stood. A conspiracy might be formed to suborn witnesses, and yet no witnesses might be suborned. The conspiracy might be, nevertheless, of the most mischievous description. If they should find that such a conspiracy had been formed—if this fact were once established—they must look with suspicion at all the evidence, even at that part of it to which the conspiracy did not appear to apply. But to argue, as some of their lordships had done, that because some of the witnesses had been suborned, or attempted to be suborned, there was an end of the case, though it was supported by purer testimony on the part of the prosecution, and, as often happened, by evidence brought forward in support of the defence, was, in his judgment, a very inconclusive way of reasoning. He now understood it to be the object of the learned counsel to prove that the witness had himself been concerned in the alleged conspiracy, and this, he apprehended, they were at liberty to do. He acquiesced in the view of the case that had been yesterday stated, namely, that counsel were at liberty to prove Zancla himself a conspirator; and, having done that, they might proceed to examine evidence as to his declarations.

Mr. Brougham.—Will your lordships allow counsel

shortly to state the view with which we wish to put the question that has been objected to?

The Lord-Chancellor.—Either of you may do it.

Mr. Williams said, he was yesterday about to examine the witness as to the purport of the declarations of Zancla himself. This was his object; and inasmuch as it was impossible for him to do that without putting the preliminary question respecting what Zancla had said, he had put that question which had been objected to, and successfully objected to, by the Attorney-General. He (Mr. Williams) was not then allowed to open what he intended to prove; and it was supposed that he was about to inquire into what Zancla had said respecting Colonel Brown—a thing which had never once entered into his dreams. What he proposed to prove was this —that Zancla had told the witness that if he would depose to any thing against the Princess of Wales his fortune would be made. To this the witness replied, "But how can I do that when I have never seen her?" Zancla would then be shown to have said, "O! as to that, I can take you to the Villa d'Este and the Lake Como—I can point out a spot where you can swear that you saw her Royal Highness and Bergami embracing, and that will be sufficient." The witness would then state what had been done in consequence; but that which he would prove was all between himself and Zancla, and had nothing to do with Colonel Brown.

The Lord-Chancellor.—State the question in the terms in which you mean to propose it.

Mr. Williams said he could not put the whole of his intended examination in one question. He should ask the witness the question he put yesterday, following it up by what he conceived necessary in explanation.

The Lord-Chancellor desired Mr. Williams to state what that question was, and desired the witness to be called in.

Antonio Mioni was then again called in, and further examined by *Mr. Williams.*

Mr. Gurney, at the request of Mr. Williams, read the following extract from the evidence of the witness yesterday:

"How long did Zancla remain above?—A quarter of an hour.

"When he came down again, did you see whether he had any thing with him?—He had a handful of double gold Napoleons.

"To the best of your judgment and recollection, how many double Napoleons might there have been?—He told me eighty; but at seeing them I believe there might be as many.

"Did they, in fact, appear as many as that?—They appeared to be really eighty.

"Do you mean eighty pieces, or forty pieces of double Napoleons?—Eighty double Napoleons.

"What did he say to you at that time?"

Then the witness was asked,

What did he say upon that occasion?

The Attorney-General said he again objected to that question; and he thought the answer his learned friend had given to his objection that morning did not carry his case at all farther than it had proceeded on the previous night. His learned friend had said that his course of examination would not open the conversation of Zancla and the witness with respect to Colonel Brown. But their lordships must recollect his learned friend to have distinctly stated, that he would be able to bring home to Colonel Brown the acts of another person. He, however, had a right to contend that the whole of those acts, allowing them to have taken place, must be attributed to Zancla, without any connexion with the Milan Commission. But his learned friend wished to show, from the declarations of Zancla, that he was employed by the Milan Commission as an agent to suborn witnesses. Such evidence, he would maintain, could not be received in any court. It never was known that an absolute agency was proved by evidence of the declaration of the agent; the agent himself must be called. The learned gentleman stated his objection to be, that the declaration of Zancla, stated by a third person, even on the showing of his learned friend, could not be received. He himself must be called; or it must be shown whether he was authorized to do such acts as those that had been referred to; because it would be most unjust

to make a principal accountable for acts which he had never given his agent liberty to perform. If their lordships looked at the way in which it was argued yesterday —most laboriously and ingeniously — by his learned friend, Mr. Tindal, they would find, notwithstanding all the efforts that had been made to prove the contrary, that the question still remained the same, and that their lordships were, in fact, only considering the judgment at which they and the learned judges had arrived yesterday.

The Solicitor-General said, the manner in which he understood his learned friend, Mr. Williams, to attempt to prove that the present must be considered admissible evidence in this case, was, first, by showing that a conspiracy had existed to suborn evidence against the Queen, and next by assuming that Zancla was one of the agents of that conspiracy.

He (the Solicitor-General) admitted, as a point not to be contested, that if it were established on the other side that a conspiracy to suborn witnesses existed, and that this man was one of those conspirators, then every act done by him with reference to that conspiracy, and every declaration he had made respecting it, was most material, and was most indisputably evidence in this case. But his learned friends had assumed the whole foundation of their argument. They assumed that there was a conspiracy to procure evidence against the Queen; and they also assumed, as part of their case, that Zancla was one of the conspirators. But he apprehended that, before they were in a condition to prove him to have been a conspirator, they ought to give evidence of the reality and existence of such a conspiracy; and then it would be competent to them to satisfy their lordships that Zancla was one of the members of the association. In support of this he would quote a passage from *Phillips's Law of Evidence* (a book that had been often referred to in the course of these proceedings), where the doctrine was laid down so clearly that it was impossible for any person to misunderstand it. The passage was as follows :—" In prosecutions for conspiracies, it is an established rule, that, where several persons are proved to have combined together for the same illegal purpose,

any act done by one of the party, in pursuance of the original concerted plan, and with reference to the common object, is, in the contemplation of law, as well as in sound reason, the act of the whole party; and, therefore, the proof of such act will be evidence against any of the others who were engaged in the same general conspiracy, without regard to the question whether the prisoner is proved to have been concerned in that particular transaction." This kind of evidence was received on the trial of Lord Strafford and of Lord Lovat, on the trials for high treason at the Old Bailey, in 1794, and in the case of Stone, in 1796; in which last case the rule was completely settled. In that case, evidence having been given sufficient for the jury to consider whether the prisoner was engaged in a conspiracy for treasonable purposes, it was determined that a letter, written by one of the conspirators, in pursuance of the common design (although the letter had not been traced into the hands of the prisoner, or to his knowledge), was admissible in evidence as the act of the prisoner himself. The acts of the several conspirators, who are engaged with the prisoner in one common object, are evidence against him, though he may not have been directly a party to them; they are evidence, as acts connected with, and in conformity with, his own acts. All that he was desirous to do was to produce a clear and distinct understanding of this question among their lordships; and if his learned friends had convinced them that there had been such a conspiracy as they spoke of, and that Zancla was a party to it, he did not stand there to contend that this would not be evidence. But was there, in fact, before them any evidence which would convince any reasonable man of the existence of such a conspiracy? And if there were no evidence of that kind, still less did it appear that Zancla had been engaged in it. What did the evidence state? The evidence was, that Zancla came down from Colonel Brown, with a certain sum of money in his hands, and that he had called on Vimercati at Milan. But was it therefore to be inferred that he had been concerned in a malignant, atrocious, and abominable design to fabricate evidence against the Queen? Was it on such vague rumors as these that

their lordships would fix this infamous crime on an absent individual? Were they, on such weak arguments, on facts of so light a nature, to come to this conclusion, not only that a foul conspiracy had existed, but that this man was a conspirator, and that many honorable individuals were no less deeply implicated in effecting the base purpose which his learned friends had pointed at? Never, in any judicial inquiry that he had been connected with, did he ever know facts so proved, and circumstances so stated, to be considered sufficient to establish the existence of a conspiracy, in order to let in evidence of the description now offered to their lordships. The only points for their lordships' consideration were, whether the existence of such a conspiracy had been established, and whether Zancla was shown to have been connected with that conspiracy. If their lordships were satisfied of the truth of these facts, then the objection of himself and his learned friend was at an end. But he did conceive that the admission of such a course of examination was quite inconsistent with the dictates of law, of common sense, of justice, and of humanity.

Mr. Williams was extremely anxious that this question should now be rightly understood, because it was very clear that yesterday it was wholly misunderstood. The Attorney-General had, on that occasion, profited of his own wrong, by stopping him (Mr. Williams) in the course of his speech, for the purpose of applying himself to a case that never did exist, and of answering arguments that never had been used. He had never asserted that Zancla was, by his declaration, to prove that any one of the Milan commissioners was privy to the conspiracy. Yet it was on that unfounded presumption that his learned friend proceeded; and he had been successful in stopping him (Mr. Williams) when he was about to state what he really meant to give in evidence. That evidence, if he had been allowed to explain it, would have beaten down and destroyed the argument of his learned friend, raised as it was on the fallacious assumption that it was intended to prove, by the means of Zancla, that Colonel Brown was connected with the conspiracy—a circumstance which, at the time, he had

not in his contemplation. The first part of the Attorney-General's objection was never contended for; and, with respect to the second part, if he understood the subject rightly, it appeared to him that, in arguing it, his learned friend had confounded the law of evidence. He had been addressing their lordships on the effect of the evidence, which effect could only be determined by hearing the evidence itself. His learned friend had confused — he would excuse him for so saying—two things, which, as a lawyer, he must have known to be essentially different. He had confounded the admissibility of evidence with the effect of evidence, when he should have known that the admissibility of the evidence was the first thing to be decided, and that its effect was to be considered after it had been received. The connexion of the conspiracy with the Milan commission was not the question they had now to grapple with. Whether that commission was a party to it—whether it was even aware of its existence or not—he still contended that he had a right to prove that there was a conspiracy. Suppose it had only resulted from the appetite for gain having been excited in the Italians by an idea of the lucrative nature of the speculation; that persons, be they who they might, had engaged themselves in suborning witnesses, and that it was not at all within the knowledge of the Milan commissioners—it would still be a conspiracy—the guilt would be the same to all the parties who were engaged in it; its effect in this case would be the same; and therefore, he contended, he had a right to prove it. If they could show that the Milan commissioners had been abused—that evidence had been procured, without their knowledge, by corrupt and profligate means—that, he contended, would dispose of the case. They might prove a conspiracy; that would at once put an end to all further proceedings, although they could not trace it to head-quarters, or to the commissioners who were sent out to Milan. But, said the Attorney-General, "Why don't you call Zancla?" What! call him—call the very culprit whom they charged with the crime—call him to prove it by evidence of his own acts! Could his learned friends who argued thus have been studying those very

cases to which they had referred? Had they there found that Mr. Hardy, Mr. Thelwall, Mr. Tooke, Mr. Stone, or any of the parties charged with the crime, had been taken from the bar, and placed in the witness-box to prove their own acts in evidence of that charge? They charged the guilt of this conspiracy against Zancla; and had he been a person resident in this country, or within the range of its laws, or the reach of its legal power, they knew, though for their own purpose they chose to forget, that they could not make him criminate himself; but it was really too much to suppose that, living where he did, out of reach of the vengeance of our laws, that he would readily comply with any invitation, or letter missive, to come and place himself at their bar to give evidence of this conspiracy, when the weight of the charge lay against himself; such a case would be quite new to him. He contended that it was competent for him to prove facts—namely, the declarations of this man—in order to show the real nature, quality, and character of his transactions. His learned friend wished him to prove two things at the same time—the existence of the conspiracy, and the agency of Zancla. To this he would answer that the declarations of the man were proofs, and strong ones. When his learned friend referred to a particular text-book (which, by the way, did not contain the dictum of a judge) he must observe that he (Mr. Williams) could quote in his favor the grave opinions of a great many celebrated writers on the law, who held that it was at the pleasure of the prosecutor to begin with whatever part of his case he chose first. This he would venture to say he had seen, in twenty instances, pursued in practice. In all the state trials, and prosecutions of a similar nature, evidence was gone into of the general state of the country, and of a variety of acts of various persons in different parts, in order to fix a conspiracy; and to show whether any connexion existed between the conspiracy, and the person charged appeared afterwards. The conversation of Zancla, showing that he was a person implicated in a transaction of the nature charged—a conspiracy to suborn witnesses—ought to be received, inasmuch as it might lead to a development of the whole scheme. If

they could not catch the conspirators in close divan, they must be content to hunt them down in detail. Therefore he conceived that the evidence which he offered was clearly admissible as any that had been brought before their lordships. Unless the practice to which he had referred, and the rule laid down by the judges, on which it was founded, were proved to be erroneous, he contended this evidence must be admitted. He hoped his learned friend, in answer, would confine his reply to what he had said and what he really meant, and not again contend against what he had not said, nor against meanings he never had conceived.

Mr. Brougham said he ought to apologize to their lordships for addressing them, after the clear, and, in his humble opinion, the conclusive, argument of his learned friend: but he would abstain from making any apology, because he was anxious not to waste their lordships' valuable time. Their lordships now understood exactly what he and his learned friends did not mean; viz., that they did not mean to give evidence with respect to the conduct of Colonel Brown. Nay, that they did not intend, at present, to tender evidence with a view to fix Colonel Brown, or the Milan commission, at all. This was not the object of the present inquiry. He and his learned friends had been engaged with that commission during some portion of those proceedings, and perhaps they would recur to them again. But did it follow, because he was not going to fix Colonel Brown, and the whole of his coadjutors at Milan, with this conspiracy, that he was therefore to be prevented from giving evidence with respect to other conspirators? If he could show that there was another man, although that individual had never before been named, who had been perpetrating acts, illegal acts—their lordships might call them what they pleased—at Milan, who had been thwarting her Majesty's defence, impeding the evidence for her, and exasperating the evidence against her—he cared not whether he was called Colonel Brown, A or B, or Zancla,—was he not justified in bringing forward evidence in respect to him? He hoped their lordships would suffer him to remind them of the way in which they had been allowed to give evidence against Colonel

Brown. That course was admitted, because the colonel was supposed to be an agent for the bill. It was, therefore, for him and his learned friends to show that he was not the only agent; and that amongst those agents the name of Zancla was enrolled. They had been correctly told by his learned friend (Mr. Williams) that nothing could be more inaccurate than to mix up the argument or the admissibility of a witness with the ultimate effect it was supposed would be produced by that evidence. Now, if he could show to their lordships that Zancla had made the declaration with which Mr. Williams opened—that he had made offers, and had endeavored to suborn witnesses—they must be prepared to allow proof of those offers and of those declarations, or else at once to shut him out from giving evidence on those points, by saying that they were irrelevant to the issue to be tried. They must be prepared either to open the door for proof of this description, or ready to declare that, allowing all he had alleged to be true, still it signified nothing, and could not be given in evidence, as it did not affect the case immediately under inquiry. It had suited the purpose of his learned friends on the other side, when this had been treated as a judicial proceeding, to argue that it was a legislative one; and when he and his learned friends took advantage of it as a legislative proceeding, they were immediately turned round upon, and told that it could only be considered in a judicial point of view. He, however, contended that they were engaged in an inquiry partaking both of a judicial and legislative character. It was so from the foundation upwards, and the two qualities were so nicely balanced that he hardly knew to which it most properly belonged. They were, however, entitled in all respects to avail themselves of any advantage that might result from that circumstance.

How did the case stand? This was a bill, and they were called on to oppose its second reading; they must, therefore, view it with reference to the subject-matter of the whole inquiry. Could their lordships then say—for they must do so, if the evidence now offered were refused—that those acts of Zancla to corrupt witnesses who were to support that bill before their lord-

ships, would not, whatever view their lordships took of the case, have a considerable effect on the opinions they would form? He would put it to the judges—he meant the noble lords who were to decide in this case—whether they would not pause before they passed this bill, if he were allowed to prove to their satisfaction that which his learned friends had stated in opening the evidence. He cared not whether the acts and sayings of Zancla could be brought home to Colonel Brown or to Vimercati, or to their employer, or not, though that would be matter of consideration for their lordships hereafter; but if they could never be brought home to any of those parties, he asked whether their lordships would not pause, more after hearing this evidence respecting Zancla, before they passed any judgment upon the bill before them, than they would have done without such evidence? For what had Zancla done? He said to this witness, "Swear any thing against the Princess of Wales, and you will get a great reward." "I cannot," replied the witness, "I know nothing against her Royal Highness; I have never even seen the place where she lives." "It does not signify," Zancla says, "I'll show you the place, I'll point out to you the rooms where she was, the places where she walked, the garden, the walks, the promenade, where she has been with Bergami, and with other men and women, for she has really been there with those persons. If you do but choose the place to which you will speak, you will swear what is true that she had been there, and if you will further swear what is not true, that you saw Bergami saluting her there, you will have a great reward." If he would prove this—and they must assume upon the question of the admissibility of such evidence that he could prove it—then their lordships must be prepared to say that this would make no difference in their minds when they came to consider the whole case before them; they must be prepared to say that all this would have no weight at all in their judgment, in order to come to a conclusion that this evidence could not be received. How monstrous it would be to say that proof of proceedings of this nature would have no weight with their lordships!

Could any noble lord lay his hand on his heart in judging of the whole subject in issue, in deciding upon a bill to ruin the Queen, and say that proof of such means having been used to obtain evidence against her Majesty made no difference in his mind? But the Solicitor-General contended that it would make no difference at all, and that, whether proved or not proved, the facts were perfectly indifferent in the case. He (Mr. Brougham) did say, then, that the door ought to be opened for evidence, which, whether it affected Colonel Brown, or Vimercati, or Zancla, showed the means used to obtain witnesses against her Majesty. If it showed perjury, it would be a ground of pausing before their lordships came to any conclusion unfavorable to her Majesty. But it had been said, and with due gravity, that we must assume conspiracy on both sides, because if subornation of perjury was resorted to, *non constat* that the Queen had not resorted to it and procured it, to be practised on the other side, in order to enable her counsel to make the objection that the evidence against her was all suborned and perjured. Let their lordships then take the evidence now offered, subject to that observation, and let that observation have its full force with their lordships when they came to weigh the whole evidence. There was one consideration which, if he might but mention it, would perhaps allay somewhat the ardor of this observation. He did not deny the possibility of such a conspiracy, nor could he deny that such a possibility affected a point of law, such as he now argued: but did their lordships think it very likely to affect a bill of this kind? In the month of March, 1818, before any surmise arose of any charge against her Majesty—before the Milan commission was appointed—before any steps were taken against her honor or dignity, the Queen was so provident as to provide for distant possibility, so acute as to prepare defence against a charge that was never made: she was so very circumspect, so extremely provident, as to contrive, in March, 1818, her defence to a bill which she foresaw would be brought into Parliament in July, 1820, two years afterwards—a bill which the wisest of men never foresaw, and the wiser they were, the less could

they foresee it. Yet she, with the volume of Bennet's trial in one hand, and the volume of Atterbury's in the other, said, in March, 1818, "I must beware how I can defend myself against the bill that is to be brought against me in July, 1820. Learned counsel can do nothing without materials; therefore, I must contrive to inveigle Zancla into conversation, which will afford ground of objection to all evidence against me." This was something more than the most provident of womenkind or mankind had ever devised; and it is not the wisest that could have taken a step at the distance of two years to make a charge against herself, which her own contrivance made sure to be brought against her. He did not deny the possibility of such conduct, but it was what lawyers called a remote possibility, and their lordships would not be apt to stand upon such a possibility in deciding this question. But after they should have heard the whole evidence, then would they be in a situation to judge of all the circumstances and facts given in evidence before them; and he begged that, when they came to be in that situation, they would not forget this remotê possibility. He again repeated that they were not there to offer evidence against Colonel Brown and the Milan commissioners; they were there defending her Majesty; in that defence they were necessarily obliged to show the manner in which evidence was obtained against her Majesty. If they could make out one fraction of a fraction of a case that Colonel Brown, Vimercati, or Zancla, as agents for the Milan commissioners, suborned any part of the evidence, it was most important to the defence. But if, in offering such facts in evidence they were met by the Milan commissioners or Zancla as defendants, instead of being considered themselves as defending, this would be setting all memory of the antecedent proceedings at defiance; it would be a forgetting of the situation in which they now stood, and of the commencement and preceding progress of this proceeding. If their lordships should act upon this false and bungling view of the Queen's defence, it would be doing grosser injustice than the passing of the bill itself. Bad as that would be, he could fancy the steps taken as means of getting it

passed worse than the passing itself. They therefore were still defending, and their learned antagonists were still prosecuting, and in that relation must they be now viewed.

The Attorney-General replied.—Whatever misunderstanding might have existed yesterday, his learned friends could not complain that they had not now argued on every view which they could take of their proposition. But if he had misunderstood his learned friends yesterday, or if their lordships had misapprehended their application, why had they not interrupted him? He denied that there had been any such misunderstanding on his part, or any misapprehension on the part of their lordships. He called back to their lordships' recollection, that his learned friend, Mr. Williams, had yesterday contended that rumors, reports, and even opinions, ought to be received in evidence, and that in that stage of the proceeding Zancla's evidence was therefore admissible. His learned friend, Mr. Brougham, had now given up Mr. Williams's argument, and for the last half-hour had been contending for the admissibility of this evidence on other principles. Their lordships were to abandon the rules on which they had hitherto proceeded, according to the declamation and address of his learned friend, Mr. Brougham. It was now a conspiracy, unconnected with the Milan commission, a conspiracy of Zancla's that they proposed to prove. It was not acts of those who had been employed in collecting evidence, or of their subordinate agents, that were offered in evidence. Their proposition now was to prove a conspiracy on the part of one of whom they had given no notice hitherto. Although A and B should never be connected, or brought together, yet their lordships were called upon to receive evidence of unconnected, insulated acts to establish a conspiracy of which there was no evidence, and to prove a connexion of which there was no proof. What would have been said if he had opened as a part of his case what had been heard and what said respecting the Queen? He would have been met, and properly met, by the objection that it was not evidence. What would have been said if he then should say, "Receive this evidence, acting as legislators, for though it may not be

proved to be connected with her Majesty's conduct, it may have considerable effect on your minds, and on the judgment which you are to pronounce?" The rules which their lordships had hitherto adhered to—rules which had been found in the courts below to be the best calculated for substantial justice—their lordships were called upon now to abandon, because his learned friends could prove insulated acts of Zancla and another, in March, 1819—acts not adopted by those who collected evidence, and not intended to prove any improper motives on the part of those who actually gave evidence. If their lordships admitted A, B, and C, to prove, not that suborned witnesses had been examined, but to prove the subornation of witnesses not examined, it would be impossible for any prosecution even to meet such a case as might be made in defence against him. His learned friend (Mr. Brougham) said, "O we don't accuse Colonel Brown, we don't accuse Vimercati, we are now only for the defence." This was the language of his learned friends now, because they found it convenient. This defence of their proposed mode of proceeding had been resorted to only within the last two days, and he could see the object of it. But they did mean to implicate, they had endeavored to implicate, the Milan commission. His learned friend, Mr. Williams, had argued that he (the Attorney-General) had said they must call Zancla. He had not said so; but he had said, and still said, if they meant to prove agency, they must call Zancla, and for this purpose Zancla was a perfectly competent witness. If they did not call him, they must call evidence to prove that his acts were adopted by the Milan commission, or by others for them. Where a co-commissioner was one of the persons implicated in the evidence, the evidence might be admitted as against all the commissioners, but no such co-commission was proved. In this case conspiracy had never been proved. First the Milan commission was charged with conspiracy: then another; now it was only Zancla. In the courts below evidence affecting a co-conspirator was admitted as affecting all the conspirators, but here no co-conspirators were proved to exist. It was shutting their eyes against the

rules of law, and against the practice of the courts below, to say that, before a conspiracy was proved, they might call evidence to prove the acts of any one co-conspirator. How, then, stood this case? No evidence of a conspiracy was before them, yet evidence had been offered which could apply only after a conspiracy had been proved. His learned friend had argued against supposing a conspiracy in March, 1818, respecting this bill, not thought of at that time, and this proceeding not then in contemplation; and now he offered evidence to prove the subornation of evidence at that time in support of a measure which according to his own hypothesis, was not then in contemplation. The case for the bill had been restricted, he would not say improperly, but it had been restricted within the strictest confines of law; and now they were called on to depart from those strict rules, because evidence was offered which might affect their judgment hereafter. But this ought to have been before thought of; either they ought not to have confined the case for the prosecution within strict limits, or, having done so, they ought not to depart from those limits. Whether their lordships acted judicially or legislatively, whatever rules they had adopted to be acted on judicially, they were to adhere to; and if on this occasion they departed from them in a legislative character, they would do the greatest injustice, if he might with submission say so; and if they did not adhere to rules which they had established and acted on hitherto, they would act in a manner contrary to all precedent.—Counsel were then ordered to withdraw.

The Lord-Chancellor considered, that if this question were allowed to be put, it would form a perfect novelty in the proceedings of that House, whether the present were regarded as a judicial proceeding purely, or as a legislatively judicial proceeding. He implored their lordships to consider this matter on both sides, and he should lament from the bottom of his heart, if this was a legislative proceeding, that it should be conducted, in any part, on any other than judicial principles. No agency was established here, but it was alleged that a conspiracy existed. Now, if they were to inquire of

persons from Italy if they believed so and so—if a conspiracy was to be proved by such means, he implored their lordships to consider where that was to end. It had been ably and powerfully stated by Mr. Brougham, as well as ably argued by Mr. Williams, that there might be certainties of such and such things being proved on one side, and no certainties of similar things being proved on the other side ; but what would any one say if such evidence had been offered as he was just going to state ; and when he put the case so for the sake of argument, he solemnly begged their lordships not to infer that any such thing could have been proved. At the opening of the bill their lordships must have observed, that it had been insinuated strongly that the illustrious person who was the object of the bill had found means of dismissing from her family and establishment all the English attendants who had accompanied her from this country, and had introduced into her family a person of the name of Bartolomeo Bergami ; and it was intended, no doubt, that a conclusion as to her purposes was to be drawn from these circumstances. These persons alleged to have been so dismissed, had been called to the bar, and had stated the grounds that induced them to leave her Royal Highness : they had stated that they quitted her service on grounds operating on their own minds, and that they had not been dismissed by her. Now, he submitted, what would have been thought if the supporters of the bill had called persons to their lordships' bar to prove that Bergami had been heard saying things which showed that her Majesty had dismissed these persons for the purposes stated in the bill? If the charges in the bill were to be met by general declarations as to the conduct of persons not connected with the business, their lordships might get rid of the bill ; but they would get rid of it at the expense of all the protections which were the great safeguard of public justice, and the preservation of which was essential to the public good.

The Lord-Chancellor then put the question, "That counsel be called in, and informed that it is the opinion of this House that the question cannot be put to the witness," which was carried unanimously.

Counsel, having been called in, were informed by the

Lord-Chancellor of the decision to which their lordships had come.

The witness was again called in.

Mr. Williams.—You stated yesterday that you went with Zancla from Venice to Milan?—I did.

Did you return to Venice with Zancla?—Yes, but before, I went to Mantua with him.

Did you leave Milan with him, did you go from Milan together?—I left Milan together with Zancla.

How many days were you at Milan?—Two days.

What is the distance from Venice to Milan?—About 185 miles.

Did you pay your own expenses, or did any one pay them for you?—I did not pay even one hundreth part *(centesimo)*, Zancla paid for the whole.

Mr. Cohen, the Queen's interpreter, said the word *cent.*, used by the witness, meant the hundreth part of a livre.

The Marchese di Spineti admitted that the word was used to denote a French coin of that value.

Mr. Brougham.—And why did you not add that?

What do you mean by a centesimo?—The hundreth part of a livre.

Had you any business of your own at Milan?—None.

Had Zancla any business in his profession of a stage manager, to your knowledge, at Milan?—None, only for this object.

What do you mean by this object?

The Attorney-General objected to that question.

Mr. Brougham.—We only want to know the witness's own meaning.

The Attorney-General then begged to interpose a question as to what was the witness's means of knowledge.

The Lord-Chancellor said, the counsel might ask whether the witness knows, otherwise than from the declaration of Zancla, what his object was.

Mr. Williams.—Did you see him transact any business of any kind except going to the house in the Porta Orientale and the street Ruga Bella; did you see him do any other business but that?—He went also to look

after a broker, or under-manager of a theatre (*sensale*), together with a person of the name of Coniberti.

Did you see him do this; did you go with him to the place, or was it only what he told you?—We found him at the coffee-house.

Whom?—Zancla and I went; we went to the coffee house at Milan.

You recollect stating yesterday, that you saw Zancla come down with a number of Napoleons in his hand?—Yes.

At that time did he make you any offer?

The Attorney-General objected to the fact as not evidence.

Mr. Brougham.—If their lordships considered that their former decision referred to such a fact, her Majesty's counsel had no desire to detain their lordships.

The Lord-Chancellor thought the former decision applied to this question.

Mr. Brougham.—Are we to consider that decision as applying to all facts of a similar nature?

The Lord-Chancellor.—The House would act very improperly, Mr. Brougham, in giving an answer to that question; for you may think a case similar, when the House may think it different.

Mr. Brougham confessed, then, that he had no other kind of evidence by which to connect this individual with the Milan commission. Restelli was off, and thus the clue was cut short. Zancla they had not, of course; and, for want of that clue, they were not able to bring persons of the same kind nearer to the Milan commission than they had brought Zancla. Their lordships thought, that Zancla's being seen coming out of Colonel Brown's house was not sufficient to prove that he was an agent, and her Majesty's counsel had no other kind of evidence to offer.

The Lord-Chancellor said, he had communicated to counsel the decision of the House, and he could only say that he left it to the discretion of counsel to put what questions they pleased to the witnesses. Of this he was sure, that it could not be left to better discretion.

Mr. Williams said he had no other questions to put to the witness.

The Attorney-General had no questions to put.

Domenico Salvadore was then called in, and having been sworn, was examined by *Mr. Denman*, through the interpretation of the *Marchese di Spineto.*

What countryman are you?—Of Trevizo.

What business or profession do you follow?—The profession of literature, both Italian and Latin.

Where do you live?—At Lausanne in Switzerland.

Were you at Morge in December 1817?—I was in the year 1818.

Did you see Sacchi there?—I saw him in that year.

Did Sacchi hold any conversation with you on the subject of the process against her Royal Highness?—He did.

Did he give any counsel to you upon that subject, or make any application to you?

The Attorney-General hoped his learned friend would have the candor to point out the part of Sacchi's evidence to which the present questions referred. He had no recollection of any questions having been put to Sacchi on the subject of his making any application to the present witness.

The witness was asked if he understood English; and having replied that he could write English, but could not speak it, he was directed to withdraw.

Mr. Denman said his learned friend objected to his putting these questions to the witness without pointing out that Sacchi had been examined respecting what he said to this witness. His learned friend took it for granted that he (Mr. Denman) wanted to contradict Sacchi; but that was not the case. He wished to prove that Sacchi had made application to this witness, as to others, to give evidence against her Majesty: representing to him that others had made their fortunes by that means, and that he might do the same if he chose. The evidence that Sacchi was an agent of the Milan commission would be found in pages 448 and 449 of the printed minutes: (*Ch. p.* 475–6,) it was as follows:—

"Were you ever at Colombier?—I have.

"How long have you been at Morge and Colombier at a time?—About six weeks.

"Did you let it be known by everybody there that you were in that neighborhood, or did you conceal yourself?—I made myself known to all.

"Under what name did you go there?—By my own proper name, Sacchi.

"Had not you money in your name at a banker's at Lausanne?—I had.

"How much had you there in your name?—Fifty Louis.

"Will you swear you had not more than that at one time at that banker's?—I had no more than those fifty Louis.

"Will you swear you never had a credit which empowered you to draw upon that banker for a larger sum than that?—I never had.

"Have you never represented that you had a larger sum or a greater credit?—I do not remember to have said so.

"But you will not swear that you have not said so?—I cannot swear when I am in doubt.

"Did not you fetch a certain Mademoiselle Demont from Switzerland to Milan?—I did.

"Did you bring her back?—I did not.

"But you went to prevail upon her to go to Milan, did you not?—Not to prevail upon her, but to ask whether she would go or not.

"Who employed you to fetch her, or to procure her attendance?—I was desired by the commission at Milan.

"Did you tell any person in Switzerland that Demont was gone back, or going back, to return into her Royal Highness's service?— Never.

Whom did you come over, yourself, to this country with?—A courier, called Mr. Krous, and my servant.

"Is that Mr. Krous the person who was lately arrested at Paris on a charge of having dealt in forged notes?—I never heard speak of that.

"Did Mr. Krous come over with you to London or remain in Paris?—He came with me over to London.

"Is Mr. Krous a regular messenger, one of the King's

messengers, or only employed on the Milan commission business ?—I do not know.

"Have you made any other journeys with Mr. Krous ? —I have not.

"How much money did you get by the Milan commission for your trouble while you were at Milan ?—I have received no other sum, except for the expenses of the journey that I made to go to Lausanne and return, and for another journey which I took to Scharnitz and returned."

Now, it was on that journey to Lausanne that he intended to prove this application was made; and he should prove that on the journey to Scharnitz Sacchi was an agent of the Milan commission.

Mr. Parke said his learned friend on the other side had not the slightest grounds for putting a question of this sort. Calling their lordships' recollection to the opinion of the Lord Chief-Justice, as delivered yesterday, he apprehended it was quite clear that the evidence proposed was not sufficient to establish that agency which was necessary to enable his learned friend to put this question. (The learned gentleman then read over the opinion of the Lord Chief-Justice.) Now he apprehended that the question submitted to the judges embraced evidence of much greater authority than that which existed in the present case ; for here there was not the slightest proof of agency to collect witnesses generally, but merely the fact of Sacchi's having been employed by the Milan commission to bring Demont from Switzerland to Milan. He thought, therefore, it would be an outrage of justice to allow the question to be asked, without having put a single question, on cross-examination, with reference to the conversation alleged to have been held with the witness, or without taking any means of establishing agency but by that ragged evidence which his learned friend offered.

Mr. Denman said, that he had been desired by his learned friend, in candor, to point out upon what principle he founded his right of putting this question. When, however, he had begun to do so, he was immediately interrupted. He submitted with great deference to their lordships that the course he proposed to adopt

was not at all inconsistent with the answer which had been given in by the learned judges. He referred to a particular proceeding, and to particular passages of the evidence, as that by which the character of Sacchi was affected; but he was quite sure that their lordships would not be blind to all that had been proved, in the course of the evidence adduced at their lordships' bar, with regard to the characters and acts of those employed by the Milan commission. He might be permitted, indeed, to say, that it would be worse than blindness, and totally inadequate for any purposes of the detection of a conspiracy, if they did not connect the whole of what was proved against Sacchi with those passages of the evidence to which he had adverted. When he talked of a Milan commission, their lordships must be sensible that he was not talking of an abstract name, but of a commission which was known actually to exist. It was not by looking at what his learned friend (Mr. Parke) had called the ragged evidence affecting Sacchi, that that existence was to be traced, or its acts to be proved; but they were not to forget the applications to witnesses which had been made through Vimercati and Riganti—and they were then to connect all that was now charged to have so been done with the result of the evidence which their lordships had already heard. And then, as for the connexion of Sacchi with the Milan commission itself, if their lordships looked at his journey to Scharnitz, at which place one of the circumstances charged against the Queen was alleged to have taken place, he thought it would be quite clear that it was connected with what transpired yesterday, in the course of evidence, relative to Riganti. Taking, then, the whole of the evidence together, and referring to the acts of Sacchi, and the result of his cross-examination, he (Mr. Denman) did not apprehend that there could be the slightest possible doubt, either that an absolute proof of agency were made out, or sufficient ground laid to let their lordships into proof of the authorized acts of the agents of the Milan commission. He did not mean to say that that commission was proved to have authorized the acts of its agents to the whole extent which they had been pursued to; but if it were proved that an

agent for certain purposes had been going about the Continent, applying his agency to those purposes which he was shown to have applied them to, he was sure their lordships would not deny that the question propounded was one most proper and necessary. It was calculated to prove a certain act on the part of one of the agents of the Milan commission; and, with respect to the Princess, or her interests, it could make no difference whether or not that act proceeded under its authority. Indeed, if the objection which had been started was to stand, the conduct of the Milan commission itself, supposing such objection adopted by their lordships, would be entirely excluded from their lordships' observation. But if Sacchi was found employed at Lausanne and at Scharnitz in the way he was ready to prove, could their lordships refuse to inquire into the whole of the circumstances? If he could prove that the agents of that commission were ever authorized to do acts of bribery, could he be told that they must be proved in a way less doubtful than that which was the object of his question? If the acts of the Milan commission were proper to be inquired into, not only as proving acts of active agency in the commission itself, but as showing the objects of those employed under it; by the same rule, both in law and in common sense, it was equally competent for their lordships to inquire what those well-known, and recognized, and active agents had been doing for the purpose of attacking the character and conduct of the Princess of Wales. The learned gentleman concluded by protesting against the objection, which might, with equal reason, have been applied to the exclusion of any other evidence on the part of her Majesty, against the evidence adduced in support of the bill; and declaring that this question, and questions of a similar character, must be allowed, before they could hope, effectively, to defend the cause and interests of her Majesty.

The Lord-Chancellor wished to ask the learned counsel at the bar whether the whole of the evidence on which they relied for the purpose of showing that Sacchi was an active agent, or indeed an agent of any kind, was to be found at 448, the page cited, (*Ch. p.* 475.) or not? He saw this question, and thought it might well

be looked at, in two views: first, as to whether Sacchi was an agent; and, secondly, supposing him not to have been an agent, whether this sort of conduct was such as to affect the evidence already given by him as a witness in this cause? There were two ways of proceeding here: the one assuming him to be an agent—the other assuming him to be a witness only. If they would prove his (Sacchi's) agency, they must prove what he had done—if, on the other hand, they went to impeach his credit as a witness, then the question should be, whether he should not have been asked as to the fact now charged against him before: and the House would determine if they would call him back or not.

Mr. Denman, in answer, craved leave to refer their lordships to page 344 of the evidence, (*Ch. p.* 391,) where Madame Demont deposed to applications made to her, as follows:

"Where did you go to then?—From Switzerland here into England.

"Who desired you to go to Milan, in order to be examined?—M. Sacchi came to seek for me, on the part of the commission.

"Who is M. Sacchi?—An Italian gentleman, &c.

"What is he besides a gentleman?—I do not know what he is; he was a soldier, but I don't know where he is at present; he was an officer.

"Did you know of his being an officer?—Yes, &c.

"He also had been in the service of the Princess, had he?—Yes.

"When he came for you, he was no longer in the service of the Princess?—No.

"And at that time he was in the service of the Milan commission, was he?—I do not know in what service he was.

"Employed by them?—I know that he came to seek for me, or fetch me, but I do not know whether he was employed otherwise."

These were the only parts of Madame Demont's evidence wherein the agency of Sacchi was spoken of.

Mr. Parke observed, that his learned friend Mr. Denman had dealt somewhat in generals with respect to Sacchi; but when he was asked for the proof and illus-

tration of his remarks, as they were to be derived from the evidence, they appeared to be confined to the facts of Sacchi's having gone to Switzerland for Madame Demont, and to Scharnitz, for what purpose did not appear: and therefore he (Mr. Parke) apprehended that, the question being without better foundation, it was impossible to admit it. How was it possible for their lordships, indeed, to allow that any act done by Sacchi in the capacity of a courier, a mere courier, should be made a ground for causing other questions to be put to him upon a re-examination? It would be contrary to every rule of evidence and law, and upon any showing, he submitted that the question propounded was quite inadmissible.

The Lord-Chancellor was of opinion, because of the two ways in which this matter, as he had observed, might be viewed—and, first of all, in order to see what was the purport of Sacchi's evidence—that the minutes of that evidence should be read over, which he would do. [Here the noble lord read from p. 344 (*Ch. p.* 391), that extract which had been just given in the course of Mr. Denman's last speech; then from 448, (*Ch. p.* 475–6,) so much of the same evidence as will be found in the preceding speech of the same gentleman, commencing with the question, "Were you ever at Colombier?" &c., and down to "I cannot swear when I am in doubt;" and finally, from page 371–2: (*Ch. p.* 421.)]

"You have said more than once that at the time you wrote that letter you were much attached to her Royal Highness; when did that attachment cease?—This attachment ceased when I heard that her Royal Highness had said several things of me in the house of her Royal Highness; that several things had been said of me in the house of her Royal Highness.

"Was it in consequence of that attachment having ceased in the manner you have described that you have been induced to come into the House to give your evidence?—No.

"What is your inducement to come?—I was asked to come to declare the truth.

"By whom?—By M. Sacchi, on the part of the commission."

The Lord-Chancellor then continued.—Sacchi, he thought, was certainly a witness. The question would then naturally be, whether, under the present circumstances, and taking him to be a witness, they could put this question as to Sacchi, with a view to impeach his evidence? With respect to Restelli, the advice their lordships had received from high legal authority was, if he spoke correctly, that the general rule of law was this :—They could not call a witness to prove whether a declaration was made by another witness for the purpose of trying the truth of the assertion, without they first asked the question of the declaring witness himself. This was done in the instance of Majochi : as to Restelli, their lordships had thought it right to call him back to their bar, but he was not then forthcoming. There was another party, of the name of Riganti ; and, with respect to him, the evidence given in support of the bill had certainly gone to prove that Riganti had been sent for the purpose of procuring witnesses, and of collecting evidence ; but, before such evidence was admitted, it would be in the recollection of the House, that a witness had been called in defence of the bill, who proved certain acts of Riganti ; and he (the Lord Chancellor) apprehended that they could not reject or stop that sort of testimony till they got to the proof that the evidence of the acts of Riganti was not to be believed. The question for their lordships was simply this—Could they upon this question, because Sacchi had been a witness in the cause, now ask for his alleged declarations, when they had already had the opportunity of telling him what those declarations were, without so telling him? The course to be pursued was, in his apprehension, this—If they meant to make Sacchi's declaration evidence, Sacchi ought to be called in, and asked if he had made it. This course would depend naturally upon the opinion of their lordships as to whether the acts of Sacchi constituted him an agent or no ; or whether they collected from the evidence that he had any character, beyond that of a messenger, to bring witnesses before the commission, being employed for such a purpose ; or whether, if they did, such circumstances did, or did not, affect the credit f Sacchi?

The Solicitor-General wished to know whether the question intended by his learned friend was to be put for the purpose of ascertaining any thing which had been said by Sacchi, or upon what other grounds? He begged to be informed by their lordships in what way they meant to allow the question to be shaped.

The Lord-Chancellor observed, that it appeared to be the opinion of the House that the question should be asked; and he was not called upon to state any grounds of his own.

The House testifying its assent to this proposition,

The Lord-Chancellor having directed counsel to be called in, said, that he was directed by their lordships to inform them, that the House considered the admissibility or non-admissibility of the question, as specially argued and settled, on the ground of the agency imputed to Sacchi. Their lordships were now willing and desirous to hear any other grounds for the admissibility of the present witness's testimony, or its inadmissibility, which the counsel on the other side might think proper to offer.

The Attorney-General objected to the evidence, and to the question arising out of the argument upon it. The objection as affecting Sacchi's credit was perfectly untenable in point of law. The imputation was, that Sacchi had been concerned in such attempts at corruption as affected his credit and testimony. How was it competent for the learned gentlemen opposite to affect the credit of a party by collateral testimony, unless they were prepared to produce the record of some conviction? There was no rule of law so clear as that a collateral issue could not be tried upon the character or credit of a witness.

Mr. Parke followed on the same side, and referred to the last edition of Phillips's *Book of Evidence*, in which it was laid down that "the party against whom a witness is called may disprove the facts stated by him, or may examine other witnesses as to his general character: but they will not be allowed to speak of particular parts of his conduct; for 'though every man is supposed to be capable of supporting the one, it is not likely that he should be prepared to answer the other without notice;'

and even if he should happen to be prepared to defend himself, such evidence might generally afford a very slight and imperfect test of his credibility. The regular mode is to inquire whether they have the means of knowing the former witness's general character, and whether from such knowledge they would believe him on his oath." Such was the rule as laid down in the book he had quoted: but his learned friends opposite meant to go even farther than was prohibited here, for they wanted to go into proof of the criminality of a witness without insinuating even the charge to him while under examination, or affording him the slightest previous opportunity of explaining or vindicating his character.

Mr. Brougham said that he was perfectly ready to agree with his learned friends in the principle of the general rule of law as laid down in Mr. Phillips's *Book of Evidence.* He was perfectly ready to agree with his learned friends at the other side that he could not discredit the acts or declarations of a witness, into which acts or declarations he had, with a knowledge of them previously, omitted to inquire. He was also perfectly ready to admit that, in order to discredit the witness of an adversary, he had no right to offer evidence which went to impeach his testimony for acts done out of the particular case. He was ready to admit all these rules generally; but at the same time he was prepared to state reasons why the proposed question to the witness ought to be put, and made an exception to the general rule: and for this short but conclusive reason—that the point upon which he wanted to inquire related to acts done by the witness in this particular cause. He agreed with his learned friends that he could not call evidence to discredit a witness upon a point of which that witness could not be supposed to have previous notice. But every man must be supposed to have notice of his own previous acts, which he is always bound to explain and justify after they are impugned. Let Sacchi be brought afterwards to defend himself if he could, but at present they had a right to tender proof of his having attempted to suborn witnesses in the cause.

Mr. Denman followed on the same side with Mr. Brougham, and contended for the legality of the ques-

tions proposed to be put to the witness. He supposed a case, that, during a trial in a court of law, a witness should come forward and state he had proof that the attorney in the cause had attempted to suborn a witness on the eve of the trial—who doubted that the judge would hesitate to allow the witness offering such proof to be put in the box before he called upon the attorney to answer the charge? Their lordships had, on a former occasion, given her Majesty's counsel the option of cross-examining at the time, or withholding their cross-examination until they had had an opportunity of making inquiries respecting witnesses. They could not have then known this evidence respecting Sacchi; but they now knew and offered proof of his having gone to Switzerland to bring Madame Demont, and of his having gone about to suborn witnesses, to commit perjury in this cause. Let the proof be given, and then let Sacchi defend himself afterwards.

Mr. Parke, in reply, said that his learned friend who spoke last had, in his suppositious case, assumed the question of agency, notwithstanding that their lordships had set that question at rest. He then quoted the opinion of Lord Ellenborough, in the case of Harris *v.* Tippet, page 285, in Mr. Phillips's book. The noble lord there said, speaking of the rule in which the party putting the irregular question to a witness is bound to take his answer—"And if the witness answers such an irrelevant question before it is disallowed or withdrawn, evidence cannot afterwards be admitted to contradict his testimony on the collateral matter. In the application of this rule the principal thing to be considered will be, whether the question is irrelevant to the points at issue between the parties. In an action for usury it would be entirely immaterial and irrelevant to cross-examine the witness respecting other contracts, supposed to have been made by the defendant, unless the witness had first said the contracts were the same, and that was the point in the case of Spencely *v.* De Willot: so it would be irrelevant to ask a witness, in cross-examination, whether he had not attempted to dissuade another witness from attending the trial." He said that it was utterly impossible, without violating every rule

of evidence, to suffer a witness to proceed with impeaching the testimony of another in the manner proposed, without laying some foundation for the proceeding in the examination of the party himself.

Mr. Brougham said that what he proposed did not shake the general rule.

The Lord-Chancellor said that, being so long removed from the practice of the courts below, he could not without delicacy allude to the rules of evidence as now administered in them. In the last quoted they had the high authority of the late Lord Ellenborough, that under particular circumstances a witness could not be called to show that another had attempted to dissuade him from attending a particular trial. The noble and learned lord (Ellenborough) thought such a course would, under the particular circumstances, be irrelevant. Now the point at present in issue might, perhaps, be not irrelevant: it might have some reference to this rule, and yet not be determinable by it; for, as Lord Coke said, *nullum simile est idem.* Would not the better course for their lordships to take be to frame a question for the judges, with a view of ascertaining exactly the practice of the courts below? Would such a question as this suit the view of the House?—When a witness for the prosecution has been examined in chief, and has been cross-examined relative to a charge of suborning witnesses, was it competent for the defendant to call a witness to show acts of subornation or of declarations to do so, on the part of the first witness, without calling him back and inquiring from him respecting the alleged acts?

Lord Erskine proposed the following question to be put to the judges, viz.:—"Whether, according to the practice and usage of the courts below, and according to law, when a witness in support of a prosecution has been examined in chief, and has not been asked in cross-examination as to any declarations made by him or acts done by him to procure persons corruptly to give evidence in support of the prosecution, it would be competent to the party accused to examine witnesses in his defence to prove such declarations or acts, without first calling back such witness examined in chief to

be examined or cross-examined as to the fact whether he ever made such declarations or did such acts?

The Lord-Chancellor then proposed another question to be put to the learned judges.

"Whether, if, on any trial in any court below, a witness is called on the part of the plaintiff or prosecutor, and gives evidence against the defendant in such cause; and if, after the cross-examination of such witness by the defendant's counsel, they discover that the witness so examined has corrupted or endeavored to corrupt another person to give false testimony on such cause, the counsel for such defendant may not be permitted to give evidence of such corrupt act of such witness, without calling back such witness?"

The judges accordingly retired, but subsequently required that time should be allowed for forming their opinion.

The counsel were called in.

Lord Chief-Justice Abbott.—My lords, the learned judges have considered the questions proposed to them by your lordships. The first of those questions, my lords, is, "Whether, according to the practice and usage of the courts below, and according to law, where a witness in support of the prosecution has been examined in chief, and has not been asked in cross-examination as to any declarations made by him, or acts done by him, to procure persons corruptly to give evidence in support of the prosecution, it would be competent to the party accused to examine witnesses in his defence, to prove such declarations or acts, without first calling back such witness examined in chief, to be examined or cross-examined as to the fact, whether he ever made such declarations or did such acts."

The second question, my lords, is as follows: "Whether if on any trial in any court below, a witness is called on the part of a plaintiff or prosecutor, and gives evidence against the defendant in such cause, and if after the cross-examination of such witness by the defendant's counsel, they discover that the witness so examined has corrupted or endeavored to corrupt another person to give false testimony on such cause; the

counsel for such defendant may not be permitted to give evidence of such corrupt act of such witness without calling back such witness."

My lords, the only material distinction between the two questions appears to be this, viz., that in the latter of the two the supposed misconduct of the witness is assumed to have been discovered after his cross-examination. In the courts below, wherein causes usually begin and end at one sitting, subsequent discoveries rarely occur in the progress of a trial; the parties on each side are expected to come at the commencement duly prepared with all the proof that may be relevant to the matter in issue, and with nothing more; and we think the only effect of a subsequent discovery would be, to allow the witness to be called back for further cross-examination, if still within reach, which may be done upon that or other reasonable ground. And we are of opinion, that according to the usage and practice of the courts below, and according to law, as administered in those courts, the proposed proof cannot be adduced without a previous cross-examination of the witness as to the matter thereof.

The legitimate object of the proposed proof is to discredit the witness; now the usual practice of the courts below, and a practice to which we are not aware of any exception, is this: If it be intended to bring the credit of a witness into question by proof of any thing that he may have said or declared touching the cause, the witness is first asked, upon cross-examination, whether or no he has said or declared that which is intended to be proved. If the witness admits the words or declaration imputed to him, the proof on the other side becomes unnecessary, and the witness has an opportunity of giving such reason, explanation, or exculpation of his conduct, if any there may be, as the particular circumstances of the transaction may happen to furnish; and thus the whole matter is brought before the court at once, which in our opinion is the most convenient course. If the witness denies the words or declaration imputed to him, the adverse party has an opportunity afterwards of contending that the matter of the speech or declaration is such, as that he is not to be bound by the answer

of the witness, but may contradict and falsify it; and if it be found to be such, his proof in contradiction will be received at the proper season. If the witness declines to give any answer to the question proposed to him by reason of the tendency thereof to criminate himself, and the court is of opinion that he cannot be compelled to answer, the adverse party has in this instance also his subsequent opportunity of tendering his proof of the matter which is received, if by law, it ought to be received. But the possibility that the witness may decline to answer the question, affords no sufficient reason for not giving him the opportunity of answering, and of offering such explanatory or exculpatory matter as I have before alluded to; and it is in our opinion of great importance, that this opportunity should be thus afforded, not only for the purpose already mentioned, but because if not given in the first instance it may be wholly lost; for a witness who has been examined, and has no reason to suppose that his further attendance is requisite, often departs the court, and may not be found or brought back until the trial be at an end. So that if evidence of this sort could be adduced on the sudden and by surprise, without any previous intimation to the witness or to the party producing him, great injustice might be done, and in our opinion not unfrequently would be done, both to the witness and to the party, and this not only in the case of a witness called by a plaintiff or prosecutor, but equally so in the case of a witness called by a defendant; and one of the great objects of the course of proceeding established in our courts, is the prevention of surprise, as far as practicable, upon any person who may appear therein.

The questions proposed by your lordships comprise not only declarations made by a witness, but also, in the language of the first of those questions, "Acts done by him to procure persons corruptly to give evidence in support of the prosecution," and in the language of the latter question, a discovery "that the witness has corrupted or endeavored to corrupt another person to give false testimony in such a cause."

My lords, we understand the acts thus mentioned, to be acts occurring in the ordinary mode and usual course

wherein such transactions are proved in common experience to take place; because we presume, if the questions had related to an act done in an extraordinary and unusual manner, our attention would have been directed to the special mode and circumstances of the act, by the frame and language of the questions. Now such acts of corruption are ordinarily accomplished by words and speeches; an offer of money or other benefit derives its entire character from the purpose for which it is made; and this purpose is notified and explained by words, so that an inquiry into the act of corruption will usually be, both in form and effect, an inquiry as to the words, spoken by the supposed corrupter; and words spoken for such purpose do, in our opinion, fall within the same rule and principle with regard to the course of proceeding in our courts, as words spoken for any other purpose; and we do not therefore perceive any solid distinction, with regard to this point, between the declarations and the acts mentioned in the questions proposed to us. It will be obvious, that the observations regarding convenience and inconvenience, which we have taken the liberty to offer to your lordships, as to the proof of words, are alike applicable to the proof of acts. Nice and subtle distinctions are avoided in our courts as much as possible, especially in matters of practice, on account of the delay, confusion, and uncertainty to which such distinctions naturally lead. For these reasons, my lords, we have thought ourselves called upon to answer both questions wholly in the negative.

The Lord-Chancellor, after taking the opinion of the House whether the counsel should be allowed to examine Sacchi now, stated that he was authorized by the House to ask the counsel for the Queen whether they had any objection to call up Sacchi?

Mr. Brougham could only repeat the answer he had given yesterday, that they did not wish Sacchi to be called up unless he were "now called," meaning at that moment yesterday.

Mr. Brougham said that he would now go on with his witnesses.

Colonel Alessandro Oliveri was then called in, and having been sworn, was examined by *Mr. Tindal*, through the interpretation of the *Marchese di Spineto.*

Were you ever in the service of the Viceroy of Italy?—I have been.

What rank did you hold in the army?—My last was colonel of cavalry.

Did you serve in the campaign of Russia?—I did.

Were you taken prisoner there?—Yes.

When did you return from Russia?—On the 18th of February 1815.

Were you afterwards in the French army?—Yes.

What rank did you hold in that army?—Colonel.

When were you first introduced to her Royal Highness the Princess of Wales?—In the month of November 1816, whilst she was at the Villa d'Este, at Como.

Who introduced you to her Royal Highness?—Baron Cavalletti.

Do you recollect afterwards seeing her Royal Highness at Rome?—I do.

When was that?—In the year 1817, when she came to Rome and remained there two months.

Do you recollect the month?—I think the beginning of June.

Did her Royal Highness at that time give you any invitation to visit her?—Often, many times; she did me the honor to admit me at her table.

Did she at any time invite you to visit her at her Villa at Pesaro?—She invited me in the month of November.

Did you pay her a visit at that time?—Yes, I paid her a visit on the 11th of November.

Was her Royal Highness at that time living at the Villa Caprili?—She was.

Was any proposition made to you to join her Royal Highness's suite?—There was.

In what situation were you to join the suit?—As one attached to her court.

Were you to receive any pension or salary for that service?—Yes.

How long did you serve in that capacity?—I continued so till the 4th of November of the following year.

That would be the year 1818?—Yes.

Did you then receive any other appointment under her Royal Highness?—I had the honor of being appointed her chamberlain.

Were you sole chamberlain, or jointly with some other person?—There were others; but at court there was nobody else except Bartolomeo Bergami and myself.

How long did you remain in the situation of joint chamberlain?—Till last February.

Do you receive at this time any pension or salary from her Majesty?—I do not.

Have you received any since the time when you left her service?—No.

Are you a married man?—I am.

Have you any family?—A daughter.

Where do your wife and daughter live?—At Rome.

Were they, at any time whilst you were in the service of her Royal Highness, at Pesaro with you?—Never.

Are you living with them at present when you are at home?—I am.

Do you recollect her Royal Highness being at Rome at the beginning of August 1817?—She at that time set out from Rome.

For what place did she set out from Rome?—She set out for Bologna, but I know that she went to Sinigaglia.

Did you sup with her Royal Highness the evening before she set out, or the evening of her setting out?—I had that honor.

At what time in the evening or night did she set out on her journey?—About midnight.

Did you hand her Royal Highness into her carriage?—I had also that honor.

Into what carriage, what kind of carriage, did you hand her?—It is what we call in Italian carrettina, a landaulet, an English carriage.

Besides her Royal Highness, who got into the same carriage?—Countess Oldi and the chamberlain Bergami.

Do you remember a little child of the party?—(The witness answered before the question was translated.) And the child Victorine.

Do you remember whether Mr. Vassali was upon that journey?—I do.

Was Mr. Hownam also on the journey?—Yes.

Did you see them in their carriages?—I saw them, and I bowed to them.

Have you ever since travelled yourself in the same carriage in which her Royal Highness travelled that night?—I have travelled, but not on that occasion.

Have you often used the carriage since?—Sometimes.

Do you know the carriage very well?—Yes, I know it.

Do you know who rode as courier from Rome upon that occasion?—I saw Carlo Forti set out as a courier.

During the time that you were joint chamberlain with Bergami, what were the manners and conduct of Bergami towards her Royal Highness?—The conduct of a respectful servant.

Did you ever see any thing improper or indecorous in his conduct towards her?—Never.

When her Royal Highness was at Rome, who were the persons who visited her?—Very many persons of the first nobility.

Can you name them, or any of them?—Cardinal Gonsalvi, Cardinal Ruffo, Cardinal Vidoni, Cardinal Cacciapiatti; I cannot remember, they are so many, besides ladies; the Princess Ghigi.

Do you remember the Baroness Aniajani?—She was one of the dames d'honneur of her Royal Highness.

By whom was she appointed?—I believe the government.

Did you ever see her Royal Highness in the company of his Holiness the Pope?—No.

Do you know the Duchess Togarella?—I do not.

Do you know the Prince and Princess Gabrielli?—I do.

The Duchess of Bracciano?—I do.

Did she also visit at her Royal Highness's?—Many times.

At the time these visits were paid, was Bergami in the company of her Royal Highness as chamberlain?—He was.

What society did her Royal Highness keep at Pesaro, who visited her there?—The whole of the first nobility of Pesaro.

Do you recollect the governor?—I do.

Is there an Archbishop Briolo?—Yes; but he was the Archbishop of Urbino.

Did he upon any occasion, about the time you are speaking of, visit her Royal Highness?—Not at Pesaro, but at Urbino, when her Royal Highness went there.

Do you know whether Bergami has been received at any of the houses of the persons you have mentioned, when her Royal Highness has not been in his company? —I too have been present there many times.

Have you seen her Royal Highness, when walking, take the arm of any gentleman of her suite?—I too have sometimes had this honor.

What was the conduct and demeanor of her Royal Highness towards the gentlemen of her suite generally? —Affable, but at the same time dignified.

After her Royal Highness appeared in the morning, who generally attended her?—All those who belonged to her court.

How did she generally pass her mornings?—After having taken breakfast, she went generally to take an airing in the carriage, and then she went into her library, or wrote.

Who generally attended her Royal Highness upon those occasions?—If you ask during the time her Royal Highness was at Rome, I cannot tell; but if you ask after the time I was in her service, then I will explain myself.

That is the time to which your attention is directed? —I repeat, all the suite attended her.

During the time her Royal Highness was at Pesaro, did she enter into society?—She had the society at her own house continually.

Was there company besides those of her own suite? —Yes, sometimes there was somebody who came during that hour.

Do you know whether her Royal Highness ever used a carriage that had an apron to it when she was at Pesaro?—I never saw such a carriage, I never saw it.

Are you to be understood that you do not know whether her Royal Highness had such a carriage?—I cannot say, because I have not seen it.

Cross-examined by the *Attorney-General.*—What countryman are you?—Of Tivoli; I was born at Tivoli, but I dwell at Rome.

Where were you living at the time you were first introduced to her Royal Highness?—I was returning at that time from France to Rome.

How long had you been in France?—Till the year 1816.

How long had you been in France at the time you were returning; how many years?—I remained in France till the end of the year 1815, then I went to Milan, and then I went to Rome in the year 1816.

You left France at the latter end of the year 1815?—Yes.

Were you in the army at the time you left France?—No; when the army of the Loire was disbanded I left the service.

How long did you remain at Milan in your way to Rome?—Till the month of November 1816.

You remained at Milan from the end of November 1815, till the end of November 1816?—I remained at Milan from the beginning of the year 1816, till some days in November.

Where were your family at that time living, at Malan or at Rome?—Always at Rome.

—What was the occasion of your staying so long at Milan at that time?—Because I had commanded a regiment; and because I had some accounts to settle with government.

Are you to be understood that you remained there during the period you have mentioned, for the purpose of settling your accounts?—Some credits that I had towards government.

What regiment were you in when you were in the army of the Loire?—In the army of the Loire, I was in the etat major of General Reillé.

Did you belong to a French regiment at that time?—No, I belonged to the etat major of General Reillé.

How long had you been upon the staff with General Reillé?—Till the army of the Loire was disbanded.

For how long before it was disbanded?—From the retreat of the army, till it was disbanded.

For what period?—After the battle of Waterloo, when the army retreated upon Paris.

How long before the battle of Waterloo had you been in the French service?—I entered the service of France about that time; after I was released from being a prisoner in Russia, I went to France.

How long had you returned from Russia, before you entered into the French service again?—From the 18th of February, as I have just stated.

In what year?—1815.

Were you in the service of the King of France before the return of Bonaparte?—Never.

Did you not say you were in the French army in February 1815?—No.

What month in the year 1815 was it that you entered into the French service?—I entered the French service in the month of May.

What regiment was it that you went to Milan to settle the accounts of?—The Dragoon of Napoleon.

How long before the time of your return to Milan was it that you had served in that regiment?—How could I go into the regiment before I went into Italy; the regiment itself had been raised in Italy; it is a question that I cannot understand.

What regiment is it that you went to Milan to settle the accounts of?—When I went in the year 1814 the army of Italy had been disbanded; when I came from Russia the army of Italy had been disbanded; and I went to Milan on the 18th of February, and then passed to France.

Have you not stated that when you went to Milan in the year 1816, you remained there for the purpose of settling some regimental accounts?—Yes, because the Austrian government had established there an express commission charged with that.

Was it in the month of November 1816, you were first introduced to her Royal Highness at Como?—Yes.

How long have you known Bergami?—I knew him then for the first time.

You stated that you afterwards saw her Royal Highness at Rome; was that the first time that you saw her

Royal Highness after you had seen her at Como?—This was the first time.

Where was it the proposition was made to you to join her Royal Highness's suite?—It was at Pesaro, when I went there on the 11th of November 1817.

Who made the proposition to you to join her Royal Highness's suite?—Her Royal Highness caused it to be said to me by her chamberlain Bergami.

Then it was Bergami made the proposition to you?—By the order of her Royal Highness.

Was that what Bergami said to you at the time?—Yes.

In what situation were you in her Royal Highness's suite, when you first joined it in consequence of that application?—I want to know whether the question is applied to my family, or to the service of her Royal Highness.

The question refers to the situation you were in in her Royal Highness's suite, when you first joined it?—I had no fixed employment then.

How long was it then before you became chamberlain?—It was on the 4th of November of the following year, 1818.

Did you continue with her Royal Highness from the month of November, 1817, when the proposition was first made to you to join the suite, till the following month of November, without any particular employment?—Yes, without fixed employment.

How long did you continue her chamberlain?—Till last February.

Where was it you quitted her Royal Highness's service?—At Rome.

How long have you been in England?—About two months or two months and a half, thereabouts.

Did you come to England alone, or in company with any other person?—I came in company with Count Schiavini.

Do you live in her Majesty's family now?—Her Majesty has done me the honor to permit my being in the house, but I do not form a part of the family.

Have you been in the house of her Majesty ever since your arrival in England with Schiavini?—On the

following day that I arrived in England with Schiavini, her Majesty sent for me, and had the kindness to make me lodge in her house.

Did Schiavini come with you from Rome?—No, he came with me from Pesaro; I went through Pesaro to take him, and he came with me here.

When was it you went to Pesaro?—When I came here.

Had you remained at Rome from the month of February, when you quitted her Majesty's service, till the time you quitted it for Pesaro in your way here?—Yes, in the country near Rome, on a small estate of my own.

Who paid the expenses of your journey to England?—I believe it has been government, for I have been indemnified by the advocate of her Majesty.

Whom do you mean by the advocate of her Majesty?—I cannot name them, because the Count Schiavini, who has received the money, has given me my share; but I know the money has come from them.

Who was the person who applied to you to come to England?—Nobody has spoken to me on the subject, but I thought it my duty to write to the Queen when I heard that a process was making, as I saw from the newspaper of Lugano.

When did you see Bergami last?—At Rome, when I left the service of her Majesty.

Have you seen him since?—No.

You said that Schiavini paid your expenses here, or let you have money to pay them; have you received any thing besides your expenses for coming here?—Nothing.

How much was it that you received from Schiavini?—Eighty-five pounds sterling.

How long or how often were you at Como, in the month of November 1816?—I was at Como once only.

You have been asked about her Royal Highness's setting out from Rome for Sinigaglia, and you have stated that Mr. Hownam and Vassali went upon that occasion; are you to be understood that they were in the same carriage?—I have not said that I was on that journey.

You were understood to say, that you saw them set

out?—Yes, I did; they were in two separate carriages.

Who went besides Mr. Hownam and Vassali, what other persons?—Those whom I have mentioned, and the two femmes de chambre of her Royal Highness, Mr. William Austin, Louis Bergami I think, and I remember no others.

Are those all that you recollect?—Those I remember; I do not remember any others.

Was Schiavini one?—Schiavini set out on the day after.

How many carriages accompanied her Royal Highness?—I think two besides her own; two or three, but two I am certain of, I do not remember the third.

Do you know the courier Sacchi?—I do.

Did you see Sacchi set out on that occasion?—No.

Will you swear that Sacchi was not the courier upon that occasion, one of the couriers?—I did not see him; I swear I did not see him; I saw Carlo Forti set out, and I did not see other couriers set out.

What time did Carlo Forti set out?—Together with the carriages of her Royal Highness.

Do you mean from the Villa Brandi, or from whence?—From the Villa Brandi.

How often have you seen Sacchi at the Villa Brandi?—Almost every time that I had the honor of going to dine with her Royal Highness.

Was Sacchi at that time one of the couriers?—I do not know whether he was a courier of her Royal Highness, for I saw him dressed as a hussar.

Do you remember afterwards, at Pesaro, Sacchi being an equerry of her Royal Highness?—When I went to Pesaro Sacchi was no longer there; he had left the service of her Royal Highness.

You have mentioned that there was a lady of the name of the Baroness Aniajani, who was one of the ladies of honor of her Royal Highness at Rome; how long did she remain one of the ladies of honor of her Royal Highness?—During the whole time her Royal Highness staid at Rome.

Do you mean at Rome, or at the Villa Brandi?—At the Villa Brandi, which is within the city of Rome.

Did she live in the house?—She came every morning,

and remained there during the whole of the day; I saw her always there.

You have mentioned the name of several of the Italian nobility who visited her Royal Highness at Rome, can you mention the names of any English ladies who visited her Royal Highness at Rome?—On the days that I went to dine there I do not remember to have seen any; I have seen some of the Roman nobility, but I do not recollect to have seen strangers.

At Pesaro did you ever see any English ladies?—No, I did not.

Did Louis Bergami dine at the table of her Royal Highness?—Sometimes he did.

Did he not always dine there when he was at Pesaro?—I did not see him always.

Do you know Bergami's sister Faustina?—I do.

Did she dine at her Royal Highness's table?—Never.

The mother of Bergami, was she at Pesaro when you were there?—She was there for a little time.

When she was there, did she dine with her Royal Highness?—Almost never, for she was always ill.

Did she ever dine with her Royal Highness?—Yes, sometimes.

Do you know the wife of Bergami?—I do not.

You have never seen her at Pesaro?—Never.

Re-examined by *Mr. Tindal.*—You have been asked whether you ever saw the wife of Bergami at Pesaro; have you ever seen your own there?—Never, she never came to Pesaro.

You have been asked, whether any English ladies visited her Royal Highness at Rome; do you know whether there were any English ladies of consequence at that time at Rome?—I do not know.

What part of the year was it you are speaking of?—1817.

What part of the year, what season?—In the months of June and July.

Is that the season when the malaria prevails at Rome?—It begins then, certainly.

You were asked whether at Pesaro any English ladies

visited her Royal Highness; do you know of any English families being there?—None.

John Allan Powell, Esq. was then again called in, and further examined by the *Lord-Chancellor.*

You have been directed to attend to deliver in certain papers sealed; are you prepared to deliver in those papers?—In obedience to the orders of the House, I hold in my hands the letters which are required of me, and I beg it may be considered by the House, that my objection to the production of them did not arise from any thing personal to myself, but from a sense of the character in which I stood.

The witness was then directed to withdraw.

Tomaso Lago Maggiore was then called in, and having been sworn, was examined by *Mr. Wilde.*

Where do you live?—Near the town of Como.

What occupation do you follow?—A fisherman.

Were you at any time employed as a boatman to her Royal Highness the Princess of Wales?—Yes.

Do you know Giuseppe Guggiari?—I do.

What is he?—Another fisherman, as I am, my companion.

Were you ever in a boat with her Royal Highness the Princess of Wales, when Bergami was there?—I have been.

Did you ever see either of those persons kiss the other in the boat?—No.

In what part of the boat did her Royal Highness sit?—On the left.

Did you sit in such a situation as to see her Royal Highness?—I did.

Had the boat lights in it?—She had.

Did you sit in such a situation that, if they had kissed, you must have seen it?—I did.

Are you quite sure that you never saw any kissing take place?

The Solicitor-General objected to the question.

It was then put thus:—Have you any doubt of it?

The Solicitor-General said this question was liable to the same objection as the former.

Mr. Wilde having already examined the witness to the fact, he only wished to obtain still more certainty. The only objection he could conceive that might be made to the question was, that it was a leading question; but as he was only following up the previous examination, he had a right to ask it.

The Solicitor-General maintained that his objection had not been at all answered by what had just been stated. In examining his own witness, if that witness had stated any thing in contradiction to what had been stated by another witness on the same side, such a question might be put; but in the present case he insisted the learned counsel had no right to put a leading question.

The Lord-Chancellor observed, that as the witness had already stated the facts, he must be held to have sworn positively. There was therefore no ground for now asking whether he had any doubt.

Cross-examined by the *Solicitor-General.*—How many times have you conducted her Royal Highness from the theatre at Como to her villa?—Precisely I cannot tell how many times, but I can positively say ten or twelve times, or even more.

Will you swear that you have not conducted her as many as twenty times?—It might be still more, but I cannot positively state how many times it might have been.

Upon those occasions, when you conducted her Royal Highness from Como to her villa, how many boatmen in general were in the boat?—Generally ten.

Was it after the theatre at Como was over that you were in the habit of doing this?—Yes, I brought her back to the villa.

Was it then at night?—In the night.

Was the part of the boat in which her Royal Highness sat, separate from that in which the boatmen worked?—The boat was all joined, but only it was divided in the middle, as it would be a carriage.

Did her Royal Highness and Bergami sit on one side of that division, and the boatmen on the other?—Six of

the boatmen were in the fore-part, before the carriage, and four of them were behind.

So that her Royal Highness and Bergami had some of the boatmen at one end, and some of the boatmen at the other?—Yes.

Was there any covering over that part of the boat in which her Royal Highness and Bergami sat?—It was covered at the top, and had glasses in front and behind.

Were there any curtains?—There was one curtain in the front, but none behind, because there were the glasses.

Were there any glasses in front?—Yes, as well as behind.

Who sat in the carriage beside Bergami and her Royal Highness?—For the most part there was the Prefect; there was also a magistrate called Podesta Parri, and a musician, Arnaboldi, a gentleman.

In going from the theatre back to the villa, did her Royal Highness and Bergami sometimes go alone?—Never; the boat was always full of gentlemen.

Will you swear that the boat was always full of gentlemen in going home from the theatre to the Villa d' Este?—Yes.

Where did the Prefect live?—He sat on one side or the other of the carriage.

Where did the Prefect live?—He dwelt at Como.

Where did the Podesta live?—At Como.

Do you mean to say then that they accompanied her Royal Highness from the theatre of Como to the Villa d'Este every night?—I cannot say that they always accompanied her Royal Highness from the theatre to the villa, for sometimes they stopped at their own house; but for the most part in the boat there were many gentlemen.

Whom did you come over to this country with?—We are twelve or thirteen or fourteen; I do not know how many we are.

Did you see Count Vassali before you came here?—I saw him at Milan.

Did he examine you as to the evidence you were to give at Milan?—No.

Who was it that examined you at Milan, if you were examined there?—Advocate Podazzi.

Do you mean Codazzi or Podazzi?—They told me Podazzi.

Did he write down what you said?—He did.

Did you swear to the truth of it?—I did.

Did Codazzi make you swear to the truth of it?—He did.

How many times did you swear to the truth of it?—I believe twice.

Then did you tell a different story at those two different times?—No.

You having told one story, and had it taken down in writing, and sworn to the truth of it, what was the reason that Codazzi made you swear to the truth of it again?—I have said about twice, but precisely I cannot tell.

Will you swear that you were not sworn three times by Codazzi?—I cannot say that.

When you say you cannot say that, do you mean that you will not swear that Codazzi made you take an oath three times?—I cannot say it: I cannot precisely state the times.

Though you cannot precisely state the times, will you undertake to swear that it was not more than twice?—I cannot swear it, because I am in doubt.

Who was there at the time you were sworn in this way?—An English gentleman.

What was his name?—I do not know.

Was the name Henry?—I do not know what name he had.

Was that English gentleman there each time that you were sworn?—He was.

How much were you paid the first time that you swore?

Mr. Denman objected to the question.

Were you paid any thing, and if so, how much the first time you swore?—No.

Do you mean to swear that you were paid nothing?—I have received twenty Italian livres.

Do you mean to swear you received twenty Italian livres the first time you were sworn?—It was on my setting out on my departure.

Do you mean to say it was on your departure to come to this country, or on your departure from Como to Milan?—From Milan to come here.

Will you swear you never received any money before you set out from Milan to come here?—Nothing.

What have you received since?—Nothing.

Will you swear that the only sum of money you have ever received for coming here was the twenty livres?—They have been three half francs.

The interpreter stated, that he had put the question, what he meant by three half francs? and that the witness stated, that he meant twenty Italian livres; that he received three half francs, each franc consisting of six and twenty Italian livres.

Will you swear you have not received any thing more or been promised any thing more?—If they will give it to me I will take it; if they do not give it to me, I came voluntarily.

Do you expect that they will give it to you?—My own will has brought me here, and if they give it to me I accept it; if they do not give it to me I have no claim.

Do you expect that they will give it to you?—I cannot say any thing about hope, because I cannot tell the idea of those people who have told me to come here; if they give it to me I will take it.

Are you a married man, and have you children?—I have a wife and children.

Has any thing been paid to them?—There has.

How much?—One livre, and my children half a livre.

Do you mean a livre a day?—Yes, a livre a day.

How many children have you?—Four.

Half a livre for each child?—Yes.

Do you pay your own expenses here, or are they paid for you?—That I do not know; they have fixed upon two Napoleons a day for the expenses.

Do you mean to say, that those two Napoleons a day are paid for your expenses?—I do not know, because we have received no other money than those francs that I have mentioned.

Has any promise been made to allow you two Napoleons a day for your expenses?—It has not been fixed upon.

What did you mean then, just now, by saying that the expenses were to be paid, and that they were two Napoleons a day?—They have fixed upon two Napoleons, but we till now have received nothing, and we do not know how it shall turn out, how it will be.

What do you mean by saying, that they fixed on two Napoleons; who are *they?*—Podazzi.

When you saw Codazzi, at any of the times when you met Codazzi, did you see, in the presence of Codazzi, at the time the business was going on, a young man with one eye?—I have not.

Who was it that took down in writing your deposition; was it Codazzi's secretary?—Podazzi.

Codazzi himself or his secretary?—Podazzi.

There was no clerk there attending at that time?—None.

Where do you live now?—We are out of the town.

How many are there of you together?—About twenty or twenty-one: I do not know precisely.

How far is it from London where you live?—Five or six miles: I do not know precisely.

How far is it from the house where the Queen lives?—I have not been to see the house of her Majesty, and I cannot tell.

Do you all live together in the same house, the twenty-one?—Yes, all.

Do you all dine at the same table?—We do.

And breakfast together?—Together.

And talk together?—All together.

How often have you seen Count Vassali or Schiavini there since you arrived?—Once.

Have you seen Guggiari there?—Who is Guggiari, do you mean Santino Guggiari.

The question refers to Santino Guggiari?—I have.

Does he live in the same house?—He lives together with us.

How long have you all been there?—It is about a fortnight.

Was not it at the request of Santino Guggiari that you came over here?—No.

Re-examined by *Mr. Wilde.*—Are you locked in and

guarded where you live?—No sentinel; there is a key in every door.

Is the door locked in the day-time; can you get out when you like?—In the house there is a key that locks the door, but we go to bed at night.

For whose expenses is it, that the two Napoleons a day were to be allowed?—For the witness.

For how many?—For each person they have fixed two Napoleons.

How many francs does each Napoleon contain?—We reckon thirteen livres, thirteen livres.

Do you know the difference between a franc and a Napoleon?—I cannot make precisely the account, four silver Napoleons make a golden Napoleon.

How much is a silver Napoleon?—Six livres and a half of Milan.

When you say two Napoleons for the expenses, what sort of Napoleons?—Silver.

Do you know that the government of your country required an allowance to be made to your family, before they would grant passports?

The Solicitor-General objected to the form of the question.

The Lord-Chancellor said that the more regular way would be to ask, what was the reason for an allowance being made to his family.

Mr. Wilde.—Do you know how the allowance came to be made to your family, for what reason?—The government has ordered so.

Did Guggiari stand at the same end of the boat that you did?—Who is Guggiari?

Giuseppe Guggiari?—Yes, he was in the same part, but behind me.

On which side of the boat did Bergami usually sit?—For the most part on the right hand.

On which side did the Princess sit?—On the left hand, for the most.

You have been asked how often you have been sworn; explain how you were sworn, what you mean by being sworn?

The interpreter stated that, being interrupted, he had not collected what the witness had said.

Mr. Cohen.—He said, when they took down my examination.

What do you mean by saying when you were sworn? —Upon the conduct of the Princess.

What do you mean by giuramento?—Upon the depositions which I gave to Podazzi, there the oath took place, or there was the oath.

Describe all that you did?—I have deposed upon all those things that they have asked me, and I have said all those things which I have seen, and upon this the oath was *(Su di questo e stato il giuramento)*.

Describe all that you did the first time you saw Codazzi?—The deposition.

How was it taken?—The deposition was this, that I have said that I had been in the service.

Did you do any thing?—How, I do not understand.

What did you do when you took the oath?—The deposition of those services which I had done to the Princess.

Was there any book there?—There was no book.

Was there any cross there?—No, I believe not.

Did you kiss any book or any cross?—Nothing.

The Solicitor-General.—When you took the oath, which you say you have taken, did you hold up your three fingers in this way?

The question was then repeated,

He told me, swear to tell the truth, but he caused me to make no sign.

When he told you swear to tell the truth, what did you say?—What did I say, what did I do, to say the whole truth, to state as I have said.

The witness was directed to withdraw, and

Chevalier Carlo Vassali was called in, and having been sworn, was examined by *Mr. Denman.*

Of what place are you a native?—Of Milan.

Do you understand English at all?—A little.

What is your profession?—I have the honor of being an equerry to the Queen of England.

Are you in any profession?—None.

Have you been in any?—I have been a military man.

What rank did you hold in the army?—My last rank was captain in the dragoons, commanding a squadron in the late disbanded Royal Italian army.

When did you first become acquainted with her Royal Highness?—At Turano, at the villa of General Pino.

Had you afterwards the honor of seeing her Royal Highness at General Pino's at Milan?—Yes.

Did you dine with her at General Pino's?—Yes.

In what year was that?—If I remember well, about 1816 or 1817.

Do you know Bergami?—I do.

Was he there at the same time?—He was.

Did he dine at General Pino's?—He did.

Did her Royal Highness invite you to accompany her on any journey at that time?—Yes.

What journey?—From Milan to Turin.

Did you accompany her Royal Highness at that time?—From Milan to Turin.

Did you afterwards accompany her Royal Highness in her tour to Germany?—Yes.

Before you set out on that journey, did her Royal Highness employ you in any situation in her household?—I set out from Milan performing the office of vice-equerry or sub-equerry.

How long did you continue in her Royal Highness's service?—Till the time her Royal Highness went to Caprili.

Do you remember what time of what year that was?—I believe in the year 1818.

Endeavor to recollect yourself, whether that date is right?—I have said I believe it was at such a time; the exact time I do not remember.

Did you enter into her Royal Highness's service at any subsequent time?—Yes.

In what capacity?—As equerry.

Have you continued in that service from that time to the present, as far as St. Omer's?—Yes.

Was Bergami in her service all the times when you were?—He was.

In what employment?—As a chamberlain.

Had he anything to do with the management of the

household, and the hiring of the servants ?—He had the direction of the house.

Was it his duty to hire the servants and dismiss them ? —I believe it was his duty.

Have you seen the Princess and Bergami walking together at different times ?—I have.

Did you ever see them walking alone ?—Sometimes ; going out from the garden under the portico.

Have you seen them riding out together on horseback or in carriages ?—In a carriage with others.

Did you ever see them riding or walking without attendants, except in the garden and immediately round the house ?—I have said that in walking I have seen them coming out of the garden and walk under the portico solely ; but by saying solely they were not alone, for when I saw them I was myself at a little distance.

Do you know whether Bergami was received at the tables of the neighboring families of distinction ?—Of what neighborhood ?

Of the neighborhood of Pesaro ?—Yes.

Were you with her Royal Highness at Munich ?—Yes.

Do you remember whether her Royal Highness dined with her suite, with the King of Bavaria ?—Yes.

Do you know whether Bergami dined at the table with the King ?—I do.

Did he dine with the King ?—He dined at the table of the King.

Do you know of any civility passing between the King of Bavaria and Bergami ?—I have seen the King treat Bergami with the greatest affability.

Do you know whether there was any present given ? —Yes.

Be so good as to mention what it was ?—A golden snuff-box, surrounded with brilliants, and adorned with the name of the King.

Have you seen that snuff-box in the possession of Bergami ?—I have.

What was the name that was upon the box ?—An M. and an I., which signifies Maximilian Joseph.

Was there any crown upon it ?—No.

Do you remember being at any time at the Barona with her Royal Highness ?—Yes.

How long were you there, when her Royal Highness was residing there ?—You must mention the time, for I was there many times.

Were you there at a time when certain balls were given ?—I believe about six weeks.

Was that the time of the carnival ?—Yes.

Do you know for whose amusement those balls were given ?—For the amusement of the suite of the family of her Royal Highness, now her Majesty.

What number of persons might attend ordinarily at those balls or dances ?—It would be difficult for me to state the precise number, but about fifty people.

Does that include the whole company, her Royal Highness's suite as well as the visitors, who came ?—All.

Do you remember whether any of the neighboring gentry attended those balls occasionally ?—From the neighborhood came the family of the tenant.

The tenant of the Barona farm ?—Yes.

When you say the family came, did their father and their mother come with the children ?—They were there constantly.

Did you ever see the Prefect Tamasia there ?—I saw him.

The Baron Cavaletti ?—Yes.

Did you see any clerical gentlemen there ?—The curate of the Barona.

Did her Royal Highness entertain company to dinner upon those occasions ?—Frequently.

Were the families of the Prefect Tamasia and the Baron Cavaletti there upon those occasions ?—Many times.

Were their wives there ?—Yes.

Their daughters ?—I do not think the daughters.

After dinner, did her Royal Highness and her company go into the room where the dancing was going forward ?—In the evening.

Did her Royal Highness and her visitors remain there any length of time ?—They came into the ball-room, and then her Royal Highness withdrew into the adjoining room to play.

Do you mean to play at cards ?—To play at cards or chess, and sometimes to play on the piano.

After her Royal Highness and her visitors left the room where the dancing was, did the servants and the visitors continue to amuse themselves?—The servants did not come in at first, therefore they could not continue; they came in after her Royal Highness had withdrawn.

Did her Royal Highness occasionally join in the dance?—She came into the ball-room, and sometimes she danced, but seldom.

Be so good as to describe the conduct of the persons who were collected upon those occasions?—Most regular.

Did you ever see any thing indecent or improper in the conduct of those persons upon those occasions?—Never.

You say you went upon the German tour with her Royal Highness; were you at Carlsruhe with her Royal Highness?—I was.

Do you remember on what day you arrived at that place?—Yes.

Mention the day?—The twenty-fifth of March.

In what year?—I believe 1818.

At what time of the day did you arrive?—About noon.

Do you remember where you dined on the day of your arrival?—I recollect that perfectly.

Where was it?—At the Margravine's.

Was the Princess there?—Yes.

And Bergami?—Yes.

Madame Oldi?—Yes.

Where did you sup on the first day?—At the Grand Duke's.

Do you remember whether the Baron d'Ende was the chamberlain of the Grand Duke?—I remember it perfectly.

Do you remember where you dined the second day?—At the Grand Duke's.

Did her Royal Highness dine there?—Yes.

Did Bergami dine there?—Yes.

And the Countess Oldi?—Yes.

Did Bergami and the Countess Oldi remain there the whole afternoon?—No.

What did they do?—Bergami complained of the head-

ache, and caused his sister to accompany him to the inn.

About what time in the evening was it?—About five o'clock.

Did her Royal Highness leave the Grand Duke's at that time?—She remained with the Grand Duchess.

Did you remain?—I did.

Did you come away with the Princess?—Yes.

At what hour?—Late in the evening.

What was done at the Grand Duke's after Bergami and the Countess Oldi went home?—Amongst other things, they sang.

Did you sing yourself?—With the Grand Duchess.

On the third day where did her Royal Highness dine?—At the Margravine's.

Were you present at that dinner?—Yes.

How was that evening employed?—We went to the theatre, and then to sup with the Grand Duke.

Were her Royal Highness and her suite at the dinner and at the play?—Yes.

On the fourth day did you remain at Carlsruhe, or go any where else?—We went to Baden.

Where did you dine?—At the inn.

At Baden?—At Baden.

How far is Baden from Carlsruhe?—I should believe about an hour's riding in the carriage.

On the day you went to Baden, where did you and the suite of her Royal Highness and her Royal Highness dine?—At the Margravine's.

Did her Royal Highness and her suite sleep at Baden on the night of which we have been speaking?—On the day we set out, we reached Baden; we slept at Baden.

The following day, when you dined with the Margravine, in what manner did you pass the afternoon?—In amusement, in society.

Were was that?—At the Margravine's.

At what time did you return to the inn that night?—About ten o'clock.

Have the goodness to mention what you did on the following day?—On the following day, I believe, we dined at the Grand Duke's; on the evening we set out, after having taken some refreshment at home.

In the course of that journey, do you remember having

gone with Bergami from Scharnitz to Inspruck about some passports?—Yes.

At what time did you set off?—We sat out after dinner, after twelve o'clock.

About what time did you return to Scharnitz?—Between two and three in the morning.

Where did you go on your return to Scharnitz, to what room?—Into the room of her Royal Highness.

Where was her Royal Highness at that time?—She was sitting on the bed—leaning, half-laying.

Was she dressed or undressed?—She was covered with shawls, or something like it.

Was any body with her?—Yes.

Who was that?—There was Bergami, then came Schiavini, and afterwards the Countess Oldi came out of her own room.

What room was that?—The room of Countess Oldi was the adjoining room to that of her Royal Highness.

Did you see the little Victorine that morning?—Yes.

Where did you see her?—I saw her sitting on the bed.

On what bed?—Of her Royal Highness.

Did you see the little Victorine with her Royal Highness on the bed when first you returned from Inspruck?—Yes.

Did you see Mademoiselle Demont?—I saw her in the room.

Was she dressed or undressed?—Dressed.

Did any officer arrive from the police in the course of that morning after you returned from Inspruck?—Not in the morning, but a few moments after our return.

Did you speak to that officer?—Yes.

After speaking to him, did you return to the room of her Royal Highness?—Often.

In what manner did you return often, how came you to return often?—First to give her an account we had arrived; afterwards to see whether she wanted any thing; and lastly to give her an account of the weather, and that they were clearing the road from the snow.

Did her Royal Highness's suite make any preparation for setting out from Scharnitz?—Yes, we remained up the whole of the night.

You have said that you yourself were often in the

room of her Royal Highness; did you see others of her suite there also in the course of those preparations?—Yes, the same that I saw before, from time to time.

Were there beds for the whole of the suite at that inn?—Straw.

Where?—Below, and in the corridor near the room of her Royal Highness.

Do you mean the corridor where the room of her Royal Highness opened?—Yes.

Were the suite laying on straw in that corridor?—I saw nobody lie, because every body had got up; because they expected us.

Do you recollect at what time you set out on your journey?—At day-break.

Had the preparations for setting out lasted till that time?—There were not many preparations to make, because we had engaged the horses the day before.

While these preparations were going forward, did you see Bergami?—Many times.

Did you see him at any time undressed at all?—Never.

Where did you see Bergami?—I saw him in the kitchen, on the stairs, at the door, and in the room of her Royal Highness.

Do you remember, in the course of that tour, being at Trieste?—Yes.

How long did her Royal Highness remain there?—A day and a half.

To what place did you go from Trieste?—To Venice.

Were you ever at Rome with her Royal Highness?—Yes, many times.

Do you remember one time when her Royal Highness went from Rome to Sinigaglia?—I remember it very well.

How long did the journey last from Rome to Sinigaglia?—I cannot say precisely; about three days.

Do you remember in what carriage her Royal Highness then travelled?—Very well.

What was it?—An English landaulet.

Do you remember who travelled with her Royal Highness, and, if you do, mention?—Countess Oldi, Monsieur Bergami, and little Victorine.

Who travelled as courier to her Royal Highness from Rome to Sinigaglia ?—I saw Carlo Forti on horseback.

Did you see Sacchi on horseback as courier during that journey ?—No.

How long had Carlo Forti been in the service ?—He began the service at Rome definitely, but provisionally he began from Loretto.

Can you state the occasion on which Carlo was provisionally hired at Loretto ?—As Forti was acquainted with the city of Rome, being a Roman, he was sent with a dispatch for this object.

Was Sacchi a courier in her Royal Highness's service at Loretto ?—Yes.

Was he sent to Rome with any dispatches ?—Not that I know.

Do you remember any circumstance that prevented his being sent ?—I believe they spared him because he was tired ; I do not know it, but I believe so.

Do you remember whether the Princess or Bergami had any padovanello ?—No.

Do you know whether any of the suite had any padovanello ?—I think that Louis Bergami had one.

Will you describe what sort of a carriage that was as to the springs and so on ?—A padovanello is a carriage which can contain but one person, without springs, and with two shafts and two wheels.

Did you ever see her Royal Highness ride in such a carriage as that ?—Never.

Have you ever seen any dance performed by a person of the name of Mahomet ?—Very frequently.

Was that ever in the presence of her Royal Highness ?—Sometimes, I believe, she saw it from the window.

Upon those occasions did Mahomet do any thing indecent with his dress ?—It was a most simple dance : by no means indecent.

Be so good as to mention whether, when her Royal Highness was residing at Pesaro, persons of rank were in the habit of visiting and receiving visits from her ?—She received all the persons of condition of Pesaro.

Do you remember the legate ?—Very much.

Was he frequently at her Royal Highness's villa?—At one time he was very frequently.

Do you mean that he paid visits of some days occasionally?—Those visits lasted some time.

What is the name of that legate?—Monseigneur Grandolfi.

Do you rememember the Marquis Antaldi?—I remember three brothers of the name of Antaldi.

Did any of them hold an office?—Two had no employ, one was an architect; he was an architect for amusement, not by profession.

Was either of them a prefect?—No.

Were those persons in the habit of visiting her Royal Highness?—Very frequently; almost every day.

Did any of them hold any office under government?—Yes, the Marquis Antaldo Antaldi.

What office was it?—He was at the head of the commune of the district of Pesaro.

Did Bergami visit in their houses?—In all houses.

Do you know whether he was received by persons of distinction when he was not in attendance upon her Royal Highness?—Yes.

Was he so received?—I have said he was received.

Have you been at the houses of such persons with Bergami?—Many times.

At Rome was her Royal Highness in the habit of frequent intercourse with persons of rank and distinction?—With the first nobility of Rome.

In all the times when you have seen her Royal Highness and Bergami together, have you ever witnessed the smallest impropriety of conduct on the part of either towards the other?—Never.

How long have you served in the army?—From the year 1805 till the year 1815.

Have you the honor to bear any orders?—I was honored with the Order of the Iron Crown at my return from the Russian campaign.

Cross-examined by the *Attorney-General.*—You say you were in the army from 1805 to 1815; what was your rank in the army when you first entered it?—A guard in the guard of honor, in the first company of the Viceroy of Italy.

Do you mean one of the common soldiers, or had you any other rank in the army at that time?—When I say guard, I mean a simple soldier in the guard of honor.

What guard of honor?—The guard of honor of the King of Italy.

When was the first time that you were in company with her Royal Highness?—At Turano, a country house of General Pino.

About what time was it that you were first in the company of her Royal Highness?—After her Royal Highness had returned from the long voyage.

In what year?—I believe it was in 1817.

How often had you seen her Royal Highness before you were invited to go with her to Turin?—I saw her at Turano; I saw her at the house of General Pino, and I saw her at the Villa d'Este.

Had you seen her only three times before you were invited to accompany her to Turin?—I have not said that I saw her three times; I only said that I saw her in three places; I saw her several times.

Who was it that applied to you to accompany her Royal Highness to Turin?—Her Royal Highness herself.

Where?—At the Barona.

You have said that when first you entered her Royal Highness's service your office was that of sub-equerry; what salary had you attached to that office?—Nothing.

What salary had you as equerry?—Two hundred Louis a-year.

How long did you continue sub-equerry?—Till we arrived at Caprili.

When was that?—I believe it was about the year 1818.

When was it you first quitted her Royal Highness's service?—I did not leave the service of her Royal Highness, I received a letter of dismissal at St. Omer's to retire.

Do you mean to say, that from the first time you entered her Royal Highness's service, to accompany her to Turin, you remained with her till you came to St. Omer's?—I set out from Caprili to Milan with dispatches; and I was absent from the family a whole year, for affairs of my own family.

When was it you set out from Caprili to Milan with those dispatches?—On the day after we reached Caprili.

Did you rejoin her at Caprili, or where was it you rejoined the Princess after you had been that year at Milan?—I did not leave the service; I went to Milan with dispatches; I remained there for affairs of my family, and I was recalled back to the Villa Vittoria by a letter.

The Villa Vittoria is at Pesaro, is it not?—A mile distant from Pesaro.

In what year was it you joined her Royal Highness at the Villa Vittoria?—1819.

Are you to be understood that you continued with her Royal Highness from that time till you left her at St. Omer's?—Yes.

You have said that you accompanied her Royal Highness to Munich, and that Bergami dined there at the King's table; did he dine there more than once?—Yes.

How often?—I cannot precisely say.

How long was her Royal Highness at Munich?—I believe between ten and fifteen days; I do not know precisely.

Where did she dine the first day when she arrived at Munich?—I believe at the inn.

Where did she dine the second day?—I think with the King.

Where was she in the evening of the second day?—I do not know.

Where did she dine the third day at Munich?—I cannot mention precisely where we dined every day.

Where did she spend the third evening at Munich?—The third day I do not know.

Where did she dine on the fourth day at Munich?—I have said that I cannot fix where she dined precisely every day.

Where did she pass the evening of the fourth day at Munich?—Some evenings we spent at the King's, some evenings at the Prince Beauharnois; but I do not know which each evening. I do not know how to fix how we passed each evening precisely.

Do you remember how many times you dined with

the King at Munich?—With the King, I believe twice; and at the state table of the King, I believe two or three times, or thereabouts.

Where did you go from Munich?—I believe, but I cannot precisely say, to Nuremberg.

How long did you stay at Nuremberg?—I believe two days.

Where did you go from Nuremberg?—I do not remember.

You do not remember to what place you went from Nuremberg?—Precisely,—no, I cannot tell.

How long were you upon that tour?—I should suppose three months, thereabouts.

How many days were you at Carlsruhe?—From the 25th to the 30th of March.

How many days?—Six days, including the days of arrival and of setting out.

What time of the day did you set out from Carlsruhe?—In the evening.

Before or after dinner?—After dinner.

How far is the inn at Carlsruhe from the Grand Duke's palace?—I cannot precisely state, it is little; about three minutes' riding in a carriage.

How far is the Margravine's palace from the inn?—Nearer than that of the Grand Duke.

At what hour did you dine at Carlsruhe, when you dined with the Grand Duke?—About three o'clock.

How long did you sit at table, during and after dinner?—About an hour and a half.

What time did the evening parties or the theatre begin?—The theatre began at one hour, and the conversazione at another.

At what hour did the theatre commence?—I believe between half-past five and six.

At what time did the evening parties—the conversazione commence?—There was no fixed hour.

About what hour?—About half-past seven or eight.

Where was it you dined at Carlsruhe the first day?—At the Margravine's.

Was Bergami there?—Yes.

Are you quite sure that he dined there the first day?—Yes.

Where did you dine the second day?—At the Grand Duke's.

Did Bergami dine there that day?—Yes.

Will you swear that he dined there that day?—Yes.

Did he dine in company with her Royal Highness every day you were at Carlsruhe?—Yes.

What day was it after your arrival at Carlsruhe, that Bergami, you say, was taken ill?—On the second day.

About what time was he taken ill?—After dinner.

Soon after dinner?—From half-past four to five o'clock.

You say that he returned to the inn; did he rejoin your party that evening?—When we went home.

About what time did you return home?—I believe between half-past seven and eight.

What makes you remember so precisely where you dined every day when you were at Carlsruhe, and you cannot recollect where you dined when you were at Munich?—A man may remember one thing and may not remember another, without being able to assign any cause.

You have said that when you returned with Bergami to Scharnitz, you returned between two and three o'clock in the morning; is that so?—Yes.

What time that morning did you set out from Scharnitz?—At day-break.

About what hour?—I should think between six and seven; towards seven o'clock.

What month was it?—I know it was very cold, it was during the winter; but I cannot remember the precise month.

Was it broad day-light when you set out?—Neither light nor dark, it was about day-break.

Then it was not broad day-light?—About day-break we might see very well.

What preparations were you making for the journey you have been talking about, after your return?—For the country people to go and clear away the snow, for we could not travel without taking away the snow.

What preparations were you making at the inn?—I have not said that they were making preparations; I have said that preparations were made, and I meant,

that is to order the country people to clear away the snow.

Did not you go to rest after your return from Inspruck?—No.

You sat up the whole night or morning?—Yes.

What were you about during the whole of that time?—I have said that I went often backwards and forwards into the room of her Royal Highness; we went and prepared something to eat for ourselves, for there was nobody that could do it for us.

How many times did you go into her Royal Highness's room?—Many times, without being able to mention the precise number.

For what purpose did you go so frequently into her Royal Highness's room?—Sometimes to give her something to eat, sometimes to mention about the weather, sometimes to tranquilize her mind about clearing away the snow, because she wanted to set out immediately; and sometimes to ask her what she wanted.

Did you carry her something to eat?—No; but I entered her room when they carried it.

What time was that?—It was about five or six.

Was that shortly before you set out?—Naturally, we set out about seven.

Where did you see Bergami during the course of that morning?—In many places.

What was he doing?—The same that we were doing.

You were understood to say, you were doing nothing, you were not making any preparations?—A person is not easy, he is always in movement when he is obliged to wait upon a personage of that quality; a person is in eternal movement.

How far is Scharnitz from Inspruck?—Do you wish to know the distance in miles, or in regard to the time that a person is requisite to employ.

In miles, if you know?—In miles I do not know precisely.

How long were you in going from Scharnitz to Inspruck?—About four or five hours, thereabouts.

You went back from Scharnitz to Inspruck?—Yes.

With Bergami?—Yes.

On horseback ?—No, in a sledge as far as a certain place, and then we went in a carriage by post.

At what time did you set out from Scharnitz to go to Inspruck ?—I believe about noon.

Where did you come from when you first arrived at Scharnitz ?—We came from Inspruck ; we passed through Inspruck.

Had you travelled from Inspruck to Scharnitz on the same day that you returned from Scharnitz to Inspruck ? —I believe we stopped in a bad inn, about the time I cannot precisely state.

About how long ?—Do you wish to know when I went there with her Royal Highness, or when I went there alone ?

You accompanied her Royal Highness to Scharnitz ? —Yes.

How long had you travelled on that day when you arrived at Scharnitz ?—I do not remember.

Do you remember at what time in the morning you had set out on your journey on that day ?—From where.

From the place that you came from to Scharnitz ?—I do not.

Had you been travelling many hours on that day when you arrived at Scharnitz ?—Some hours, but I do not know the time precisely.

Did you stay at Scharnitz, or did you immediately return to Inspruck, in consequence of the mistake about passports ?—I remained a very little time, about an hour.

Then you returned adout two or three o'clock in the morning ; were you not very much fatigued with your journey ?—For a man who has performed campaigns, it is not possible to be tired so.

Will you swear that after your return from Inspruck, you never lay down to sleep till you set out again ?—I swear it.

Were you never lying down upon the straw, for the purpose of resting yourself ?—Never for a moment.

Did Bergami repose himself at all after his return from Inspruck ?—I did not see him rest.

Were the carriages unloaded at Scharnitz ?—No.

How many carriages accompanied her Royal Highness, when she went from Rome to Sinigaglia ?—Four.

At what time did you set out from Rome?—About 10 in the evening.

It was very hot weather, was it not?—Not during the night.

In the day?—During the day, very much.

Who travelled in the first carriage?—Her Royal Highness, Countess Oldi, Mr. Bergami, and the little Victorine.

Who in the second?—I believe Mr. Hownam, Mademoiselle Demont and Mademoiselle Brunette.

Who in the third?—Mr. William Austin, myself, and a servant on the box.

Who in the fourth?—I believe they were servants.

Was Louis Bergami upon that journey?—No.

Camera?—I believe not.

What servants were there in the fourth carriage?—If I do not deceive myself, there were Soliman, and a Greek servant, whose name I do not remember.

Where did you stop the first morning after you set out from Rome?—At Otricola.

Where the second?—I believe at Nocera.

Do you remember whether it was the intention of her Royal Highness on the second morning to have stopped at a palace called Foligno?—I did not know the intention of her Royal Highness.

Do you remember any person being sent on from Foligno to order horses for the purpose of continuing the journey to Nocera?—I do not.

Where did you arrive on the third morning?—I do not know precisely whether we arrived at Sinigaglia, or whether it was the fourth day.

Do you remember stopping at Fano?—Yes.

How long did you stop at Fano?—I think a little time; an hour, or two hours; I cannot precisely state the time.

At what time did you arrive at Fano?—It was during the day, but I cannot precisely state the hour; it appears to me it was day-light.

Do you remember seeing the theatre at Fano?—I saw it, but not with her Royal Highness.

Do you not remember visiting some friends of yours at Fano while you were there?—I do.

Did not you desire Forti to apprize your friend at Fano that you should be there, and see him ?—Yes.

Did not Forti set out before you to Fano, and did you not desire Forti, on his arrival at Fano, to apprize your friend that you were coming ?—I believe he arrived a few moments before.

Did you not desire Forti, when he set out from the stage preceding, to apprize your friend at Fano that you were coming there ?—I did not order Forti to go before to tell my friends; but I told him, if he should arrive at Fano before us, to tell my friend that I was coming.

Do you remember seeing Sacchi at Fano ?—No.

Will you swear you did not see him at Fano ?—I swear it.

Do you know a place called Terni ?—I do.

Do you remember stopping there in your way to Sinigaglia ?—Yes, I think we stopped at the Piazza.

Do you remember taking any refreshment there ?—Something; but I do not know what thing.

Do you remember taking some ices there ?—Not I.

Did any body else ?—I have said I do not know what they did take.

Did they take any refreshment ?—Something; but I do not know whether it was hot or cold.

Where did you take it ?—I think in the carriage.

Who brought you the refreshment to the carriages ?—The servants.

What servants ?—I do not know.

Will you swear that Sacchi did not bring you some refreshment upon that occasion ?—I swear that I do not remember to have seen Sacchi.

Will you swear that he was not there ?—I repeat again that I cannot swear that he was not there.

Do not you remember Sacchi's coming to William Austin upon that occasion, and speaking to him about the refreshment ?—No.

Will you swear that in the course of that journey you did not see Sacchi ?—I swear that I do not remember to have seen him.

Will you venture to swear that he was not upon that journey as a courier ?—I cannot swear; I cannot say

whether he was or was not, for I do not remember to have seen him.

Did the Countess Oldi, during the whole of that journey, travel with her Royal Highness, or did she not occasionally change carriages?—Always.

What time did you arrive at Sinigaglia?—I think by day.

At what time of the day?—If I am not mistaken, before dinner.

Will you swear that it was not in the afternoon, about four or five o'clock?—When I do not know a thing precisely, I do not swear.

Then you do not remember the precise time that you arrived at Sinigaglia?—No.

How many days was it after you set out from Rome, that you arrived at Sinigaglia?—Three or four days.

Do you know a person of the name of Racchi?—I do.

Was he on that journey?—He was.

Where did he travel, in what carriage?—On the box of the carriage.

Which carriage do you mean?—Of the carriage in which the femmes de chambres and Mr. Hownam travelled.

You have spoken of the balls at the Barona, and you have said that a person of the name of Cavaletti used to be at those balls; was Cavaletti in her Royal Highness's service at that time?—No.

Where did he live?—At Milan.

Do you know a person of the name of Antongina?—I do.

Were his daughters at the ball?—They were.

What is Antongina?—A tenant of the Barona.

Besides Tamasia and Cavaletti, can you remember the names of any other persons of rank, who were ever at those balls?—Yes.

Who were they?—Doctor Mocatti, and the clergyman of the Barona.

Any body else?—I do not remember precisely.

You say there was dancing there, did you dance with the rest there?—I did.

You say you know the daughters of Antongina; did you ever see any of them in any other room of the house besides the dancing-room?—Never.

Or any other of the females who were at that dance? Never.

Did her Royal Highness use to dance with those persons?—Sometimes, generally.

Where was your family living, at the time you were at the Barona?—At Milan.

Were they at those balls?—None of them had been presented to her Royal Highness before that time.

Do you know the wife of Bergami?—I do.

Was she ever at any of those balls?—Never.

When was it you last saw Bergami?—Last month, in coming from Rome.

Where did you see him?—At the Villa Victoria.

Any where else?—You ask me to the last time, and I have answered to the last time; I saw him there; I saw him also at Milan.

Did you see him at the Villa d'Este?—No, not now.

At the Barona?—Yes.

And at Milan?—The last time at Milan.

Were you frequently with him?—Yes.

And with General Pino?—With General Pino I was alone.

Did you not apply to many persons to come over as witnesses upon this occasion?—They offered themselves.

Have you not engaged to indemnify several of them for coming over?—It is not my character to recruit.

That is not an answer to the question; have you undertaken to indemnify any persons who have come over here?—Not I; the whole thing was done by the advocate Henry; I have done nothing.

Have you made no agreement with any of the persons who have come here to pay them, or indemnify them for coming here?—I have not made any agreement; I have executed the agreement which has been made by the advocate Henry.

What agreement have you made at the request of Mr. Henry, and with whom?

Mr. Brougham objected to this question, as implying what the witness had not admitted.

The Lord-Chancellor observed, that he certainly had understood the witness to say, not that he made any

agreements, but merely that he had executed those made by another party.

How many agreements have you executed at the request of Mr. Henry?—To the poor people, the agreement is ten livres per day for their support; during their absence a franc a day to each of their wives, and half a franc a day to each of their children; this agreement has been made, because the passports would not be granted without securing something for the support of the family.

Have you made no agreement to pay any witness who has come over here, any money for coming over here?—I have made no agreement to pay; Mr. Giarolini, the head master, before I set out, said that he suffered damage. Then the advocate Henry stated, that the English laws granted an indemnification for what they might lose during their absence; consequently it has been ordered, or rather requested, of Architect Ratti, that he should make an account of what his loss might be; this was done on a stamped paper, and it has been fixed to be three thousand livres of Milan; this sum, according to this account made by the advocate Henry, I have paid to the son of the head master Giarolini.

Have you not given money for any persons to give evidence upon this occasion?—Not to be a witness, never; I have given at the departure of eighteen or twenty witnesses, by the order of Advocate Henry, a small sum of two or three Napoleons, on account of the ten francs per day, which thing I have explained to all the witnesses.

By whom were you employed to give this money to the witnesses?—Advocate Henry has requested me.

How long have you been in England?—I have been three times.

When was the first time you came?—When her Majesty was at Geneva.

When the next time?—The second time, when she came from Paris.

You were understood to say you left her Royal Highness at Saint Omer's?—It is true.

How long after that was it that you came to England?—Six or seven weeks.

What was the occasion of your coming to England then?—I was sent for.

By whom?—By her Majesty the Queen.

How long were you in England upon your coming upon that occasion?—The second time I was here eight or nine days.

Did you not go out on the part of her Majesty to collect witnesses at Milan, and elsewhere, for her?—I was sent to Milan to render it easy for those who wished to come for her Majesty to come.

How many persons had you communication with there as witnesses?—Forty or fifty.

How many persons came over with you the last time?—Two witnesses.

Who were they?—One was Bonfiglio Omati, the other was Pasquelle Lago Maggiore.

Did Omati come as your servant?—I did not want him, because I had a servant.

That is no answer; did he not come in the character of your servant, and was he not represented to be so?—He came as a witness for her Majesty the Queen.

Did not you represent him to be your servant when you quitted the Austrian states?—Never.

Did you frequently see Bergami when you were at Milan?—Sometimes.

Frequently?—Frequently.

Every day?—No.

Did you not see him every day you were there, either at Milan or at the Barona?—No.

Or at General Pino's?— At General Pino's, never.

How long were you at Milan?—At intervals, two months at a time.

Did you go to Pesaro the last time you were abroad?—Yes.

Did you see Bergami at Pesaro?—Yes.

Did you travel with him from Pesaro to Milan?—No.

Did he go before, or did he follow you?—He did not follow me; he came a few days after.

How long were you at Pesaro?—Half a day.

What was the occasion of your leaving her Majesty at St. Omer's?—I had not left her Majesty at St. Omer's by my own will, I should have followed her willingly

even to England; she thought proper to give me my dismissal.

How many of her Majesty's suite left her at St. Omer's?—Mr. Bergami, the little Victorine, two maids, and three or four servants.

Did you go with Bergami from St. Omer's?—Yes.

Where did you go to with him?—To Paris.

Did you take the little Victorine to Paris?—Yes.

Did you live with Bergami at Paris?—Yes.

Where?—At the hotel of Frescati, Rue Richelieu.

Was he there the whole of the time you were at Paris?—All the time I was at Paris I was with Bergami.

The whole time at the hotel of Frescati, or in any other place?—No, we dismounted at a little inn, where we remained two days, and then we went to the hotel Frescati.

Who paid the expenses of that journey, when you accompanied Bergami?—I did.

Did you pay for Bergami as well as for yourself?—I paid for the expenses of the journey, and I was reimbursed.

Reimbursed by whom?—By Bergami.

In what carriage did you travel from St. Omer's?—A carriage for three people.

Was that one of her Majesty's carriages in which you travelled up to St. Omer's?—I believe it was one of the carriages.

Had Bergami and yourself any more than one carriage?—Two carriages.

Were they both carriages that had belonged to her Majesty?—No.

What was the other carriage then?—A German carriage; I do not know to whom it belonged.

Was not that one of the carriages which had accompanied her Royal Highness up to St. Omer's?—It was.

What servants accompanied you and Bergami to Paris?—Francesco Serra, Amelio, Carnaghi, Agustino, Govin, and Marsigliani; I believe there was another, whose name I do not remember precisely.

Did you accompany Bergami to Italy from Paris?—No, because I was here.

You came from Paris here?—Yes.

Did you leave Bergami at Paris, or did he set out?—I left him at Paris.

Did you afterwards see him at Paris?—Not afterwards.

Where did you next see him after you went abroad again?—The first time I saw him at the Villa Vittoria, at Pesaro.

Where did you last see the Countess Oldi?—At her own house.

Where was that?—At Crema.

Had her Majesty any lady of honor with her after Countess Oldi left her?—No.

Did the Countess Oldi travel from Pesaro to Crema with her Royal Highness?—I do not think she did; I am sure almost. No.

You were upon that journey, were you not, when her Royal Highness came to England from Pesaro?—Yes.

Did the Countess Oldi travel with her any part of that journey or not?—No.

Where did you leave Louis Bergami?—We left him at Pesaro, I believe, or at Milan.

Where did you last see the mother of Bergami?—At Milan.

When?—Every time I was at Milan.

Have you ever seen Bergami's wife?—I have.

Have you ever seen her at the Barona?—I believe I saw her one day.

When?—When I was the last time at Milan.

Was Bergami there then?—He was.

He was at the Barona?—Yes.

Where was the little Victorine, do you know?—At Paris.

With whom?—With two young ladies.

What young ladies?—The same that set out from St. Omer's.

The last time that you saw Victorine was at Paris, with two of the servants of her Majesty, who had left her at St. Omer's?—We travelled together.

You travelled together to Paris?—Yes.

Was Victorine in the same hotel with you at Paris, or was she placed in any other house?—Yes.

With those two female servants?—Always.

Did those servants take care of Victorine?—Yes, because they did not like to return home.

Was the little Victorine at the Barona when you were there last?—No.

What salary have you now from her Majesty?—I have no salary; I have a pension.

What is your pension?—The same I had when I was an equerry.

How much is that?—About 200 Louis.

How many francs?—About 4,800 or 5,000 francs.

Where does your family live now?—The family of my father in Milan; my wife in London.

Where is your wife living in London?—At Sabloniere's hotel.

Where are you yourself living?—At the same place.

Who pays the expense of yourself and your wife being here?—Till now I have not paid the account; I do not know.

Who is to pay?—I believe that, being here as a witness for her Majesty, it is the government who is to pay it.

Have you received any money from any person since you have been in England?—Never; nay, I have not been paid for the journey.

Did you take out any money with you when you went to Milan the last time?—I do not travel without money.

Who gave you the money to go out to Milan?—To go to Milan, I received 100*l.* from Mr. Coutts.

On whose account did you receive that?—For the journey.

Who gave you the order on Coutts to receive the 100*l.*?—Her Majesty the Queen.

Did you not take with you also a letter of credit when you went to Milan?—No, nothing.

Did you receive any money from Marrietti while you were at Milan?—I received it by the order of Mr. Henry.

How much?—I think fifty-two thousand livres of Milan.

Is that all you have received?—The whole.

Either there or in England?—At Milan, and something whilst I was at Venice.

How much at Venice?—I believe a hundred Napoleons, that was all included.

Who travelled with you to Venice?—I went there with the son of Mr. Wood.

What did you go to Venice for with the son of Mr. Wood?—To acquire some knowledge about a person whom it was necessary for me to know.

Did Mr. Wood travel with you any where else?—We went from thence to Milan.

Who paid the expenses of your journey to Milan, when you were with Mr. Wood?—I.

Did you travel with any other person besides Mr. Wood, when you were in Italy?—With a courier and my servant.

With no other gentleman when you were in Italy?—In going from hence to Italy with the son of Mr. Wood, a courier, and my servant.

Whilst you were abroad in Italy, did you never travel with any other persons except Mr. Wood and your servant?—Yes.

Who?—Mr. Mioni.

Who else, in Italy or any where else since you have been abroad?—In Italy with Mr. Mioni; I do not remember anybody else in any other place.

Do not you remember to have travelled with any other persons besides Mr. Wood, while you have been abroad?—No.

Are you sure you have travelled with no other person than Mr. Wood, with no other gentleman, English or foreign?—I do not recollect.

Where did you travel to, besides Venice and Pesaro?—Rome.

Did you go to Switzerland?—Never.

From Rome, did you return to Milan?—Yes.

What countryman are you?—Of Milan.

Have you any other fortune besides the pension you derive from her Royal Highness?—I have some property of my own.

Where is Francesco Serra now?—At Hammersmith.

The following questions were put by the *Lord-Chancellor* at the request of *Mr. Brougham:*

Did you see any thing in the dance of Mahomet, as you yourself saw it, which any lady of distinction and

character might not in your opinion have witnessed?—Without doubt it is a ridiculous dance, no more.

Do you mean that there was any thing improper or indecent in it?—Nothing at all.

When her Royal Highness returned the second night she was at Carlsruhe, from the palace to the inn, did you accompany her?—I did not.

When did you go there?—When she returned home, between seven and eight.

That is the time as to which you are asked, did you accompany her?—Yes, between seven and eight.

Into what room of the inn did you accompany her Royal Highness?—The saloon.

Whom did you find there?—Bergami and his sister, and another person of the suite came to meet her.

Was Bergami dressed at that time?—He was in a uniform.

How was her Royal Highness dressed at that time?—I cannot remember how she was dressed.

Do you recollect whether she was dressed in a court or state dress?—In a dress of great splendor.

Did her Royal Highness remain for any time in that room which you call the saloon?—Some time, then we went to the Margravine's.

Did you all go together, Bergami accompanying her Royal Highness, as well as yourself?—Yes.

How long did you all remain at the evening party at court, after that?—Till about ten o'clock.

Mr. Brougham begged to state, why he was not prepared at this hour to call another witness. He said—"It is of great importance for me to state to your lordships the predicament in which I and the other counsel for her Majesty are placed. We have proceeded thus far with the case of our illustrious client—with what success and fulness of evidence it will remain for the House hereafter to decide. But I now have to submit to your lordships that we find ourselves reduced to the necessity of requiring the assistance of the court before which we are acting, and to recur to the demand made upon its justice in the outset of this proceeding, or of that part of this proceeding which consists of the defence of her Majesty. Your lordships will

recollect that, in consequence of the desire expressed by the House, we began that defence by calling a witness who had been sent over to bring from Carlsrhue a person of great distinction, and as a witness not only of the highest importance to the Queen's case; who was to prove not only all that was deficient in our evidence, but to negative the testimony of Kress; who was to follow up all that we had urged against the principle and the particular facts of the bill by showing, what he alone could show, that her Majesty was not the person described in the preamble—that she was not given to low habits—that she did not frequent base company—that she did not skulk from the society of her equals—and, above all, that she did not screen herself from intercourse with her friends and family relations. On the contrary, he was to prove that long after the time to her Majesty's return from the long voyage she came—which the evidence for the bill applies—long after into Germany, frequented the courts of her blood relations and allied connexions, and in their presence placed herself with her suite, whom they received; and that there, and not in Italy, she desired to fix her abode, and adopted measures for taking a palace, where she might in future remain. She had no wish to skulk from thence, but proposed to stay there for the rest of her days, for aught I know, in the immediate neighborhood of her Serene relatives. After what I have already proved, and after the comments on the testimony on the other side, I should consider this evidence complete, decisive, and plenary, and as leaving me not one single stone to remove of the ruins of the structure of the case that has been brought against her Majesty. I am still deprived of this material witness, and his evidence is still withheld from the defence of the Queen in the same manner, that I complained it had been withheld when the subject was last before the House. I am bound, in justice to his Majesty's government, to acknowledge that they have done all that in them lay to remove this difficulty: against their conduct I have nothing to offer; and that we did not sooner apply for assistance to them, I trust will not be imputed to us as a fault when it is recollected that we only knew of the obstruction a few

hours before we mentioned it to the House. If we had complained by anticipation, the effect would have been to furnish the other side with a list of our witnesses. But they have used their influence in vain; the Baron d'Ende, the chamberlain, who was at first so willing to come until his master refused him leave, is not now to be procured. It turns out again, that when he was applied for by the King's minister at Carlsruhe, who kindly was sent to for the purpose, permission was again refused, at least as he thought, at a private and verbal conference. Afterwards the representation was made in writing, and he was then told by Mr. Berstett, the minister, that permission had not been refused to the baron, only that no steps would be taken to compel him to come. This was stated by the same Mr. Berstett, who, I am in a condition to prove, was the very man who had compelled Kress to come over to give her evidence in support of the bill. It was then communicated to the baron, that he might go to London if he thought fit: but the baron, who was an excellent man, and would have been an excellent witness, was also an excellent chamberlain; he was a chamberlain by profession, and with all the frailties of chamberlain, for no sooner was it announced that he might come than it was discovered that he was ill of a fever, as if Restelli's sickness had crossed the Alps to affect him. However, it was asserted to be of serious consequence, and steps were immediately taken by him for a serious cure. This, of course, was to be a long process, and the baron finally refused to come, well knowing, no doubt, what Mr. Berstett was made of, and well knowing also on which side of the question the wishes of some folks must be. I say that his Majesty's ministers used their utmost endeavors: we do not charge them at all, but they have not had plain honest Englishmen to deal with, but wily, crafty, foreign courtiers, who thought everybody they had to deal with as roguish as themselves. These persons paid no attention to the representations of the King's minister; Mr. Lamb used all the arguments he could employ, and he put them forcibly and ably, but all in vain, for we know very well that there is a different inclination at the bottom as to witnesses

coming for the bill and against it. Abroad they understand one another a great deal better than we understood our ministers here; and Mr. Berstett having made his representation to the chamberlain, that chamberlain could take a hint: and suddenly, with the easy compliance of an amiable good creature, and of a faithful honest chamberlain, he immediately falls sick of an illness which it is difficult to say how he acquired, unless by some communication with Restelli. When the papers are presented to your lordships, you will find something to call for comment, but nothing to censure, in the conduct of the King's government. What I have stated is a misfortune to the Queen arising from the nature of her situation. Regarding the conduct of foreign governments, I will not argue excepting from what I know; but her Majesty feels the consequence of this state of things, and is now and for ever deprived of this important, this all-important, witness. I throw myself on your lordships with entire confidence that the Court will give due weight to this statement, and will not proceed upon the new and monstrous principle that a person accused of nine or ten charges, and who has refuted seven or eight of them, though prevented by unavoidable circumstances from giving a complete answer to the rest, is still, for the first time since justice was known in our courts, to be held guilty."

Counsel were then ordered to withdraw.

Mr. Brougham requested that Louisa Demont might be called in.

The Solicitor-General said, that in consequence of a communication of the wish of the counsel for her Majesty, Louisa Demont, who was at her lodgings in London, had been sent for, but that he had been informed that Mr. Vizard had mentioned to Mr. Maule, that he should not want her before twelve o'clock, and that Mr. Maule had gone away with that impression.

Mr. Brougham begged to tender that which he could not in an ordinary trial do, being aware that it would be defective in that proceeding; but he hoped their lordships, in regard of the particular nature of the inquiry in which they were now engaged, and more especially with relation to the charge contained in the

preamble of the bill against her Majesty, would be pleased to receive it in evidence: that it being alleged in the preamble of the bill, "That her Majesty conducted herself, not only with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful, and adulterous intercourse during her Majesty's residence abroad, but that by that conduct of her Royal Highness great scandal and dishonor had been brought, during the whole of the period to which the preceding statement referred, upon his Majesty's family and this kingdom; and that it was to manifest a deep sense of such scandalous, disgraceful, and vicious conduct on the part of her Majesty, by which she had rendered herself unworthy of the exalted rank and station of Queen Consort, and to evince a just regard for the dignity of the Crown and the honor of the nation," he tendered the evidence which he held in his hand, to rebut that allegation, and to show that the general estimation in foreign nations of her Royal Highness was such, after they had witnessed her conduct, as to be utterly inconsistent with the statement in the bill; that the paper he tendered was the Austrian Gazette, published at Trieste at the time her Royal Highness was there, which stated her to have arrived at mid-day, on a certain day, and to have left Trieste on the following day, with all demonstrations of respect befitting a person of her station; that he tendered this, not as conclusive evidence, but as *primâ facie* evidence of that which was inconsistent with the allegations of the bill.

The Attorney-General said it was impossible that the papers in question could be received in evidence; and he had to complain of his learned friend making the statement he had done, because he knew very well that the evidence he proposed was inadmissible. In proof of this he had only to call to their lordships' recollection what his learned friend had himself acknowledged, he having begun by stating that the evidence he had to offer to their lordships was such as in ordinary cases could not be received. Would it have been competent to him in his case to have produced such evidence? Certainly not. Then if he could not be permitted to bring forward proof of this kind, why should such an

advantage be conceded to his learned friend? He therefore humbly contended that these papers could not be received as evidence by their lordships.

The Solicitor-General contended that these papers had not been offered for the ostensible purpose of showing how the Princess of Wales had been received at Trieste, but for the purpose of affording his learned friend an opportunity of making the statement he had done respecting the time of her Royal Highness's arrival and departure from Trieste. That, he was satisfied, was the only reason his learned friend had for offering these two newspapers to the consideration of their lordships. What effect this attempt might have on their lordships' minds it was not for him to decide; but it was most palpaple. It was impossible not to see that the sole object aimed at in producing these papers was to make collaterally an impression which his learned friend could not make directly. It was admitted even by his learned friend that the evidence could not be received in the courts below, and he was confident that their lordships would reject it.

Mr. Brougham had stated that he did not think these papers evidence which could be received in a court of justice; but he thought they might go for something in a proceeding out of such a court. He was not here in a court of justice. In a court of justice he could have objected to the members of a grand jury afterwards becoming part of the jury to try the cause—in a court of justice he would have had his right of challenge against the jurors—in a court of justice he would have been allowed to prove declarations made by jurors in hostility to his client—in a court of justice he might have objected to the prosecutors of his client sitting as judges and jury. But the privileges which he would have had, and all the objections which would have been open to him in a court of justice, were denied to him here. If, then, he was to be confined to strictly legal evidence, let then his adversaries conduct their case according to the practice of courts of justice. He wished for nothing more than to be regulated by the practice of the courts below, if that regulation were fairly applied to both sides. But, to make this a completely

legal proceeding, their lordships must give him a jury fairly chosen, and all the rights he would have had before a jury. This proceeding had been said to be anomalous; but the first anomaly was, that those who were the accusers sat as the judges of his client. That anomaly produced another, in the offer of those papers as evidence. When so much anomaly was admitted against, he might surely claim some in favor of, his illustrious client.

The Lord-Chancellor said that it was the opinion of the House the papers could not be received in evidence.

The Lord-Chancellor directed that, if Lieutenant Howman was in waiting with his diploma, he should now be brought to the bar to produce it.

Lieutenant Joseph Robert Hownam was again called in, and further examined by *Mr. Brougham.*

Have you got the diploma of the Order of St. Caroline?—I have.

Is that under the seal of the order?—It is.

The same was translated by the Marchese di Spineto, Mr. Cohen concurring in the same, and then the diploma was delivered in, of which the following is a copy:

DIPLOMA creating Lieutenant JOSEPH HOWNAM, R.N., a Knight of the Order of St. Caroline of Jerusalem.

Jerusalem, 12th July, 1816.

By this present, subscribed by the own hand of her Royal Highness the Princess of Wales, and bearing her seal, her Royal Highness institutes and creates a new Order, to recompense the faithful knights who have had the honor of accompanying her on her pilgrimage to the Holy Land.

First—This Order shall be given, and worn only by those who have accompanied her Royal Highness to Jerusalem, except her physician Professor Mochetti, who by a simple accident could not follow her.

Second—The Colonel Bartholomew Bergami, Baron of Francina, Knight of Malta, and of the Holy Sepulchre of Jerusalem, equerry of her Royal Highness, shall be the Grand Master of this order, and his children, males

as well as females, shall succeed him, and shall have the honor to wear this same order from generation to generation for ever.

Third—This same advantage is granted to the Knight of the Holy Sepulchre, Mr. William Austin, and also his legitimate children, shall enjoy this honor for ever.

Fourth—This honor shall be personal for you, Mr. Joseph Hownam, captain of the British Navy, knight in the suite of her Royal Highness, created one of the Knights of this order by this present, and at your death the cross and the patent shall be returned to the Grand Master.

Fifth—The Grand Master shall wear the cross round his neck, and the other knights shall be obliged to wear it at the button hole of the left hand side of their coats

Sixth—The above mentioned Order consists of a Red Cross, with the motto "Honi soit qui mal y pense;" and shall be called by the name of "St. Caroline of Jerusalem." The Ribbon shall be lilac and silver.

(Signed) CAROLINE, Princess of Wales.

Colonel BERGAMI, Baron of Francina, Knight of Malta and of the Holy Sepulchre, Grand Master.

(Addressed)—To the Knight Joseph Hownam, a Knight in the Suite of her Royal Highness, &c.

N. B.—The Seal affixed to the Diploma is stated in the Diploma itself to be the seal of her Majesty; but it appears to be so defaced, that it is difficult for an engraving to be made of it.

Louisa Demont was then again called in and further examined by the Lords, through the interpretation of *Mr. Pinario*, the questions being suggested by *Mr. Williams.*

Are you acquainted with a woman of the name of Fanchette Martigner?—I believe not.

Do you know a man of the name of Henry Martigner?—I do not recollect any such name.

Do you know a place in Switzerland called Morje?—Yes.

The woman to whom the question refers is a milliner

at that place?—I know a person, a Marchande de Modes of the name of Martigni, not Martigner.

Do you remember seeing that woman in April 1818? —I have seen her several times, but I do not remember in what month.

In the year 1818?—I do not recollect; but I may have seen her in the course of that year.

Do you remember sending for that woman to alter a bonnet for you?—I cannot recollect my sending for her, because I did not reside at Morje.

Did you see her upon the subject of a bonnet in any part of the year 1818?—I may have seen her, but I do not positively recollect whether I did or not.

Do you know the woman of whom you are reminded? —I know this woman, Madame Martigni.

Had not you some conversation with her in the year 1818 about the Princess of Wales?—As I do not recollect seeing her in the course of that year, I do not recollect having any conversation with her.

Did you not see this woman after you had left the Princess's service?—Yes, I saw her afterwards.

Had you not then some conversation respecting the Princess of Wales?—I do not recollect whether I had any conversation with her; it may be, but I do not recollect.

Do you not remember this woman, Martigni, speaking on the subject of your journal?—I do not at all recollect her speaking to me on the subject of my journal.

Do you mean to say that you did not hold a conversation with this woman, Martigni, on the subject of your journal?—I may have had a conversation with her, but I do not recollect; it may be.

Do you not remember this woman speaking with you as to the conduct of the Princess of Wales?—I do not recollect.

Do you not recollect saying any thing about the persons that surrounded the Princess of Wales?—I do not recollect; I have often spoken about the Princess, but not about persons who surrounded her, who were of her suite.

Did not this woman, Martigni, ask a question of you respecting the character of the Princess of Wales?—I

do not recollect having had a conversation with her on that subject: it may be, but I do not at all recollect.

You say you recollect being at Morje: do you recollect having a bonnet mended whilst you was there?

The Solicitor-General objected to this question: she had not said that she had been at Morje.

Do you remember being at Morje?—Yes, I have been at Morje several times.

Do you not remember this woman, Martigni, putting this question, "Whether the Princess of Wales was not a woman of intrigue, a femme gallante?—I do not at all recollect; I do not recollect having had any conversation with this woman upon the subject of the Princess.

Do you mean to say that you had not this conversation, and that the woman Martigni did not put the question now asked?—I do not at all recollect.

Will you say that it did not pass, that the question was not put to you?—I do not at all recollect whether this question was put to me; I have not the least idea of it.

Do you remember at that time becoming angry on the subject of the Princess's conduct being mentioned?—I do not recollect; I do not remember this conversation; I have not the least idea of it.

Do you remember your saying at that time, to this woman Martigni, that it was all a calumny, and that it was her (the Princess's) enemies that spread such rumors?—I do not recollect anything like that; I do not recollect it at all.

Will you swear that you did not say so?—I will not swear it, but I have not the least idea of it; before I was put upon my oath, I never said any thing of what passed in the house of her Royal Highness.

If that be so, do you mean now to represent that you did not use the language just put to you, or to that effect?—I have not the least idea of such a conversation; I do not recollect it all.

Will you swear you did not say so?—I will not swear it, because I do not recollect it at all; I have not the least idea of it.

Did you not say to this Madame Martigni, that from the time the Princess left England she was surrounded

by spies?—I never could have said so, because I myself never saw any spies.

Will you then swear that you did not say that which was just put to you?—I will not swear it, but I do not recollect having ever said it.

Did you not say just now you could not have said it, because you never saw or knew any thing of spies?—I do not remember ever saying so at all; I do not recollect having this conversation, I have no idea of it.

You were understood to say this moment you could not have said it, because you knew nothing of spies?—I do not believe I ever said so at all.

Will you swear you did not say so?—I will not swear it, but I do not think I ever said it.

Did you not say in addition, to this same woman, that the Princess was very unfortunate?—I do not recollect this conversation at all.

That the most simple actions of her life were always misinterpreted?—I do not recollect ever saying so; I do not remember this conversation at all.

Will you swear that this conversation, or any part of it, passed in the year 1818?—I cannot swear, but I cannot recollect; I do not recollect any thing of it, I have no idea of it.

Do you remember being at Madame Jaquereau on a visit at Morje?—Yes.

When was that?—I have been there several times.

The question refers to the year 1818?—I have been several times there after quitting the service of the Princess, but I do not recollect at what periods.

Were not you there, upon a visit to the person just mentioned to you, in the year 1818?—Yes, I was there in the year 1818.

And in that year 1818, when you were on a visit, had you not a bonnet altered or repaired by Madame Martigni?—It may be, but I do not positively recollect it.

Have you no memory about your bonnet being repaired or altered by this woman?—I have had several bonnets altered by Madame Martigni.

Did you not tell Madame Martigni that you had always been about the person of the Princess?—I do not at all recollect this conversation.

Will you swear that Madame Martigni did not remark to you, that as you had always been about the person of the Princess, you must have observed all her actions? —I do not recollect this conversation; it may be, but but I have not the least idea of it.

Did not Madame Martigni inquire particularly of you, whether you had seen any thing unchaste in the conduct of the Princess?—I do not recollect at all having had this conversation; I have not the least idea of it.

Will you swear it did not take place in those very words, or to that effect?—I cannot swear it, I do not recollect it at all.

Will you swear that you did not reply to this effect, "My God! never in my life; it is impossible for any body to be more virtuous than the Princess of Wales?" —I do not recollect; I cannot recollect having any conversation on the subject with Madame Martigni.

Will you swear you had not any conversation to that effect with Madame Martigni?—I cannot swear it, but I have not the least recollection of it, I have not the least idea of it.

Do you believe you have used those expressions, or expressions to that effect, in answer to a question put by Madame Martigni?—I do not recollect such a question; but if such a question took place, I do not believe I made such an answer.

Did you not also say to Madame Martigni, that in all her persecutions, she, the Princess, had no friend but the old King?

The Solicitor-General objected to this question. His learned friend had no right to assume as fact the conversation between Madame Martigni and the witness about the conduct of the Princess of Wales. He did assume it as fact, however, by the mode of putting this last question, namely, "Did you not also?"

The Lord-Chancellor observed, that the question might be asked, omitting the word "also," to which the Solicitor-General had just objected. He would here just remark to Mr. Williams, that he was to attend, not only to the shaping and wording of the questions, but to the manner and demeanor of them.

The question was then repeated, so amended.

I have not the least idea whatever of this conversation, I do not recollect it.

Will you swear you did not say so?—I will not swear it, but I do not believe that I ever said so.

Were not you at Morje in the month of November in the year 1818?—I have been several times at Morje; I may have been there in that month.

Have you any recollection one way or the other, whether you were or were not there in that month of November?—I may have been there in that month, but I do not exactly recollect; I was there either at the end of November, or perhaps the beginning of December.

Did not Madame Martigni ask of you, whether the Princess was not much afflicted at the loss of the Princess Charlotte?—I do not remember such a conversation; I have not the least idea of it, I assure you, not the least idea.

Will you swear that Madame Martigni did not put that question to you?—I cannot positively swear it, but I have not the least idea.

Did you not say yes, it was very natural, as she had lost every thing in losing her child?—I have not the least idea of such a conversation, I do not recollect it in the least.

Do you believe that such a conversation took place with Madame Martigni?—I do not believe that such a conversation took place.

Did not you say to Madame Martigni, that it was possible after the death of the Princess Charlotte, that the Princess of Wales would make some diminution in the expense of her household?—I have not the least idea of such a conversation; I assure you I do not recollect it at all; I have not the least idea of it.

Will you swear it did not take place?—I would not positively swear, but I have not the least idea of it.

When was it you first made any deposition upon your oath, on the subject of your evidence?

The Lord-Chancellor.—Has she said any thing in the course of her examination about her being sworn?

Mr. Williams.—Oh! yes, my lord, doubtless.

Mr. Brougham submitted that this question might be put independently of the object of this examination.

The Lord-Chancellor.—You said to-day that you were calling the witness to speak to her depositions; either, I suppose, with a view to her general evidence, so as to affect it in some way or other, or to disprove particular assertions. If it be for any other object, I must confess I do not see the necessity of going into fresh matter in this stage of the proceeding. If your object be to open such a case, however (and I do not say that you may not do so), explain to their lordships the manner in which you propose to do it; and first of all, as the ground of this question, satisfy the House that the witness has spoken of her being before sworn.

Mr. Williams.—In her evidence, my lord, she uses the very terms; she says she has been sworn.

At the request of the *Lord-Chancellor* the following extract from the former evidence was read over to the witness:—

"Do you remember your saying at that time to this woman Martigni, that it was all a calumny, and that it was her (the Princess's) enemies that spread such rumors?—I do not recollect any thing like it; I do not recollect it at all.

"Will you swear that you did not say so?—I will not swear it, but I have not the least idea of it; before I was put upon my oath, I never said any thing of what passed in the house of her Royal Highness."

Mr. Williams.—I wish to ask when it was that she was put on her oath for the first time?

The Solicitor-General did not object to this question, provided they (the Queen's counsel) would explain to the witness that the question was, "when she was first put upon her oath?" The question and answer just read ought to be repeated to her; for in a former part of her evidence their lordships might have observed the distinction which she took between being examined and being sworn.

Mr. Williams.—My lords, that is the very reason why I object to the objection of the Solicitor-General.

The Lord-Chancellor.—I beg your pardon, Mr. Williams, this examination was meant to be that of their lordships,

not of counsel; and I wish you to look back at your own examination, where you may find that such was the understanding between the House and the counsel.

The part of the evidence last quoted was again read.

The Lord-Chancellor.—What did you mean by those words "before I was put upon my oath?"—I mean before I was examined and put upon my oath here.

The following questions were put at the request of the *Solicitor-General.*

Before you were examined here, had you been examined any where else?—I was examined at Milan.

Had you ever said any thing about her Royal Highness before you were examined at this place here?—Was it after having been examined at Milan or before?

At any time before you were sworn here, had you ever said any thing about her Royal Highness?—I had spoken often of her Royal Highness before I was examined at Milan.

What did you mean by saying that before you were put upon your oath you had never said any thing as to what passed in the house of her Royal Highness?—The meaning is, that I never said any thing of her conduct with Baron Bergami, with Monsieur Bergami.

Do you mean that before you were sworn in this place where you now are, you never, upon any occasion, said any thing elsewhere as to the conduct of her Royal Highness with Baron Bergami?—I made my depositions at Milan.

Fanchette Martigner was then called in, and having been sworn, was examined by *Mr. Williams.*

Are you the wife of Henry Martigner?—Yes.

Of what place?—Of Morje.

Do you keep a milliner's shop there?—Yes.

Do you know Louisa Demont?—Yes.

How long have you known her?—From the time she was at Morje, when she was quite young, and was learning to work.

Was that before she went into the service of the Princess of Wales?—A long time before that.

According to the best of your judgment, how old was

Demont at the time when you first became acquainted with her?—When I knew her the first time, she might be about sixteen.

Have you frequently seen Demont at Morje?—From the moment I became acquainted with her, I saw her very often.

Do you remember seeing Demont at Morje at any time in the year 1818?—I saw her in the month of April.

On what occasion did you see Louisa Demont?—At the country house of the Demoiselles Jaquereau, whither I was called on account of some work.

Work to be done for whom?—For Mademoiselle Demont.

Before that time, had you seen any journal of Louisa Demont?—I had read it.

When you saw Demont on the subject of some work, did you enter into any conversation with her, Demont, upon the subject of that journal, or of the Princess?—Yes.

Do you remember asking her any question respecting the Princess of Wales and her conduct?—The first time I spoke to her about her voyage, because I had seen her journal.

The question refers to the time when you had the work to do for Demont?—I understand so.

Did you ask Demont any question respecting the conduct of the Princess of Wales, or respecting the Princess of Wales generally?—Yes.

What was the question which you put to Demont.

The Attorney-General put it to their lordships, whether, if the object of calling this witness was to affect the credit of Demont, these questions were likely at all to produce that effect?

The Lord-Chancellor said, there were two ways in which the propriety of this question might be considered: first, whether it was to be received as affecting the credit of Demont's evidence generally; and, secondly, whether, if it was not receivable as affecting that evidence generally, it might be receivable as applying to specific parts. If you (addressing the Attorney-General), as counsel for the bill, think it is not receivable in

either case, it is your duty to suggest your objection, and your reason for it. I have allowed this course to proceed thus far, and therefore, for myself, imagine it may go on.

The Attorney-General said, if such was the feeling of their lordships, he must of course bow to it.

Mr. Brougham explained, that they had not put the witness there as an evidence affecting Demont's credit generally, but to establish a particular contradiction to one or two of her assertions.

At the desire of the *Solicitor-General*, the following extracts were read from the evidence :—

"Do you remember your saying at that time to this woman, Martigni, that it was all a calumny, and that it was her (the Princess's) enemies that spread such rumors?—I do not recollect any thing like it, I do not recollect it at all.

"Will you swear that you did not say so?—I will not swear it, but I have not the least idea of it; before I was put upon my oath, I never said any thing of what passed in the house of her Royal Highness.

"What did you mean by those words, 'before I was put on my oath?'—I mean before I was examined and put upon my oath here."

The following questions were put at the request of the *Solicitor-General.*

"Before you were examined here, had you been examined any where else?—I was examined at Milan.

"Had you ever said any thing about her Royal Highness before you were examined at this place here?—Was it after having been examined at Milan, or before?

"At any time before you were sworn here, had you ever said any thing about her Royal Highness?—I had spoken often of her Royal Highness before I was examined at Milan.

"What did you mean by saying, that before you were put upon your oath, you had never said any thing as to what passed in the house of her Royal Highness?—The meaning is that I never said any thing of her conduct with Baron Bergami, with Monsieur Bergami.

"Do you mean that before you were sworn in this place, where you now are, you never upon any occasion

said any thing any where as to the conduct of her Royal Highness with Baron Bergami ?—I made my depositions at Milan."

The Solicitor-General objected to the evidence in the view with which it was now offered.

Mr. Williams said, that both the preamble of the bill, and all the evidence in support of it, imputed immoral conduct as having taken place between the Princess and Bergami. If, therefore, he could prove that Demont acquitted her Royal Highness of all levity of conduct, her declaration to that effect to another person would be a contradiction of her testimony here. It was in this view that he proposed the evidence of the other witness.

Lord Erskine was of opinion that the evidence ought to be admitted. It was, of course, for their lordships to say, when they came to consider the whole of Madame Demont's evidence, what value they would attach to it, taking all the circumstances of her declarations together.

The Lord-Chancellor observed, that this evidence was tendered, on the part of her Majesty, by her counsel, to contradict the particular statement made by Madame Demont. As such, he thought it was admissible ; and it was, of course, for their lordships to take it into account when they were considering the whole of Madame Demont's evidence.

The question was proposed ; and the witness said :

I observed to Mademoiselle Demont that the Princess of Wales was a femme libertine et galante ; and I said so frankly, for such was my opinion.

What answer did Demont make to your observation ? —She put herself in a great passion, and said it was nothing but calumnies invented by her enemies in order to ruin her.

Did Demont say more ?—She said every thing that was good of the Princess ; that she had never observed any thing about the Princess, or of the Princess, but what was good.

Do you remember Demont saying any thing about spies ?—She told me that ever since the Princess had quitted England, she had always been surrounded with spies ; and she said something more, that every action

that she did, even the simplest actions, and with the best intention, were misinterpreted; that the Princess knew very well that she was surrounded by spies, but that she did no action but what she was willing that all the world should know.

Do you remember observing to Demont, that as she, Demont, had always been about the person of the Princess, she must have observed all her actions?

The Solicitor-General objected to the form of the question.

The Lord-Chancellor said that the question was in too leading a form; that they might ask the witness, whether she remembered having said any thing to her about her having been about the person of the Princess.

Do you remember yourself saying any thing to Demont about Demont being about the person of the Princess?—I only recollect what I have said.

Do you remember inquiring of Demont any thing about the chastity of the Princess?—Yes, I asked her whether she had observed any thing of the Princess.

What did she answer?—She answered, no, that she had never observed any thing; and further observed, "it is impossible to be more virtuous than my Princess."

Do you remember any thing being said by Demont about the late King, about the old King?—She said, in the conversation, that the old King was the only support the Princess had.

You have stated that you had, on several occasions, seen Demont; did you know her well, and did Demont know you well?—Yes.

Do you remember seeing Demont again in the course of the year 1818?—Yes.

About what time in the year 1818?—In the month of November.

Mr. Williams.—My lords, I shall not pursue this examination further, on the point of the arrival of the intelligence respecting the Princess Charlotte's death, for I do not think Madame Demont has given a peremptory contradiction in her answer upon it. I have by this witness given a positive contradiction to parts of her general testimony.

Cross-examined by the *Solicitor-General.*—What is it

that leads you particularly to remember that this conversation took place in the year 1818?—Because I saw her depositions in the public papers, and then I openly showed, or manifested, or expressed my indignation, that she could have said what she had said to me and afterwards have made such depositions.

Will you have the goodness to answer the question, which was, "What leads you to remember that this took place in the year 1818?"—Because she employed me in altering a hat or bonnet, and she took it back from me on the 22d of April 1818, as it appears by entries in my day-book.

Was that the year in which your husband fell into embarrassed circumstances?

Mr. Williams objected to the question, as assuming a fact not proved.

Did your husband in that year, and if in that year, in what part of that year, fall into embarrassed circumstances?—My husband never was in embarrassed circumstances.

Do you mean to swear that your husband was never a bankrupt?—My God! yes; neither he nor I.

How far is it from Morje to Colombier, where you live?—About a short league.

How many times in the course of the year might you have seen Demont?—I saw her several times, but only spoke to her twice.

How many times did you see her in the year 1817?—I did not see her at all.

How long was it before the month of April 1818 that you had seen her?—I did not see her before; I knew she was in the country, or in the neighborhood, but that was the first time I saw her.

Did you ever see her upon any occasion before the month of April 1818?—I had seen her before she entered into the service of the Princess; but after her quitting the service, for the first time I saw her in the month of April 1818, eight days before I did that work about her hat.

When was it that you saw her before she went into the service of her Royal Highness?—I have seen her

several times at Morje; she came to my shop, to my warehouse, to buy different things.

Did the acquaintance you had with her arise from the circumstance of her coming to your shop in the manner you have described to buy those different articles?—Yes.

Can you remember when was the first time of her life, or about the first time, that she came to make some purchases?—When she was at Morje, when she was learning to do needle-work at Mademoiselle Redar.

How long is that ago?—Miss Demont might then be about fifteen or sixteen, as I have already said.

As the age of Mademoiselle Demont now is not known, answer the question; how long was it, to the best of your recollection?—I do not know her age; she was then quite young, and was learning to work.

About how many years ago is it, since that happened?—I cannot recollect the precise time, it was when Mademoiselle Demont was quite young, and she was learning to make hats, and to do other work.

Was it as much as five, or six, or ten years ago?—I cannot positively tell, I only know that she was then quite young, and that she was at Morje to learn to work; they might write to Morje to know.

Do you mean to swear you cannot tell whether it was five or ten years ago?—Yes, I cannot swear it, because I do not know.

Can you state whether it is three years or ten?—I cannot say, I do not know, I swear I know nothing about it; this Mademoiselle Redar might be written to and will give the information.

Do you mean upon the oath you have taken to swear you do not know whether it is three or ten years ago?—Yes, I can swear it, because I cannot swear what I do not know, what I do not recollect.

Who was present, besides yourself and Demont, at the time this conversation you have spoken of took place?—The Demoiselles Jaquereau, the two sisters.

Where are the Demoiselles Jaquereau now?—One of them is at Nismes, and the other is at her country house at Morje.

Did this conversation take place in the house of

Mademoiselle Jaquereau, or in your own shop?—At the house of the Demoiselles Jaquereau.

Was Mademoiselle Demont living there at that time?—She was there upon a visit.

Having stated that Mademoiselle Jaquereau was there at the time, do you mean to state that the conversation took place under such circumstances, that Mademoiselle Jaquereau must have heard it?—They heard almost the whole of it, they were coming in and going out of the room alternately, yet they can recollect the greatest part of that conversation; but there are several particulars of that conversation which they well recollect, and even they found fault with my making that observation to Mademoiselle Demont.

When were you examined first as to what passed in that conversation?—Do you mean examined by those gentlemen who came to Switzerland; it is about two weeks ago, a fortnight ago.

Who were those gentlemen?—They are English names, one of them is Mr. Garston, and the other, I believe, is Johnson; I cannot well recollect because they are English names.

Was it taken down in writing?—Yes.

Did they leave a copy of it with you?—No.

Did you keep a copy yourself?—No.

Had you put it down in writing before they came?—No, I had not even an idea of it.

Who came over with you to this country?—Mr. Barry.

Did any body else come with you, or did you come alone with Mr. Barry?—I came accompanied by my husband; I would not travel along the public roads without him.

What agreement have you or your husband made for compensation or reward for coming here?—My husband has had nothing to do with that; these gentlemen told me that we should be indemnified in a just and fair manner by the government of this country.

Has no sum been mentioned?—As I did not know these gentlemen, I would not trust to their word, because two years ago an Englishman, called Addison, occasioned me a loss of fifty Louis; on this account they have deposited the sum of 100*l.* at a banker's

called Messrs. Moret, as a security for their promise, and they have a receipt for that sum.

Is that 100*l.* which is deposited as a security for their promise, to be paid to you?—This sum cannot be paid to me without an order from those gentlemen, because the sum has only been placed there as a security for their promise.

Is the promise they have made to you a promise that you shall receive 100*l.*?—No, what government will grant as just and fair; it is a guarantee of that promise, because they said it was not their intention to buy witnesses.

Do you mean to swear, that since you came to this country, or since you were first spoken to, no promise had been made to you or to your husband by any body?—By nobody, I swear it, I tell the exact truth.

Have you received any thing?—I have received 70*l.* sterling on account, for which I gave a receipt, because there is a suit depending there which will be decided against me, or may be decided against me, if I am not there on the 24th of the next month; not knowing how low long I should have to remain in London, I would not leave my affairs without something to depend upon, and I have only received that as on account.

Besides that, have your expenses been paid, or did you pay your own expenses upon the journey?—Those gentlemen paid the expenses of the journey.

Did you travel post?—Yes, because it is this day eight days that we left Geneva, at four o'clock in the afternoon.

How much, besides the 70*l.*, do you expect to receive as a compensation for coming here as a witness?—As my whole dependence is on what this government will think just or proper to do, I cannot say that I expect any fixed sum myself; and my husband left our affairs there in the care of strangers, and the person whom I placed there in my room, and three young women in my shop to attend to it.

You have no expectation of any precise sum?—No promise has been made to me;—they have said nothing to me about it.

Where do you live here now?—We arrived here late

yesterday, at midnight: we have been placed somewhere, I do not know where; and here I am to-day in the morning.

Re-examined by *Mr. Williams.*—You have been asked about the time when you saw Demont at Morje; was it before she went into the service of the Princess of Wales?—Yes, I had seen her several times, as I have told you; she came to my shop.

How soon after that conversation you had at Mademoiselle Jaquereau, upon the subject of the Princess, did you hear of Demont having made a deposition against her?—You know it better, gentlemen, than myself; it was on the 22d of April my conversation with her took place; eight days before I sent to her the work I had had to do for her.

Have you ever had any conversation with either of the Mademoiselles Jaquereau upon the subject of this conversation with Demont?

The Solicitor-General objected to the question.

Mr. Williams conceived he had a right to put it to her, as a matter of recollection. He did not want to know the subject of the conversation, but the general fact whether she had any.

The Lord-Chancellor asked what her conversation with those parties had to do with the present question.

Mr. Williams repeated, that it was not the subject of the conversation he wanted, but the general fact.

The Solicitor-General could not see the necessity of the question. It was not pressed.

The witness was directed to withdraw.

Mr. Brougham.—My lords, with reference to what I stated to your lordships on Saturday, as to the difficulties imposed upon us for the defence by obstacles put in our way—obstacles which, as I then stated, I did not attribute to any want of support on the part of his Majesty's Government; but, my lords, it does happen that your lordships' process does not run on the Continent for us, though it does for our adversaries. My lords, I say, with reference to that, some correspondence has been placed on your lordships' table, particularly respecting the non-attendance of the chamberlain, Baron D'Ende. On this there are a few questions which I

would wish to put to Mr. Leman, to clear up what appears a slight discrepancy. I hope, therefore, your lordships will allow us to have him recalled.

James Leman was then again called in.

The Solicitor-General observed that this gentleman was in court during the whole of the proceedings.

Mr. Brougham.—No doubt he was during a great part of them ; but as clerk to Mr. Vizard, he does not come within the description of witnesses who were to be kept out of Court by your lordships' order. Besides, we do not intend to examine him touching any thing which occurred in Court.

The witness was then examined by Mr Tindal.

Were you dispatched at any time to Carlsruhe ?—I was.

When did you arrive at Carlsrhue ?—Between the 13th and 14th, in the middle of the night.

The 14th of what ?—Of September.

Did you inquire there for the Baron D'Ende ?—I did, on the morning of the 14th of September.

Was the Baron D'Ende then at Carlsruhe ?—I was informed at his house that he was then at Baden.

Were you informed when he was expected back at Carlsruhe ?—They told me he would return to Carlsruhe on Sunday the 17th.

Did you afterwards set out from Carlsruhe to Baden for the purpose of finding him there ?—I called at the Baron's house at Carlsruhe on Saturday evening ; they told me it was very uncertain whether he would be there on the Sunday. I took a carriage, and went on Sunday towards Baden to meet him.

As you were on your road to Baden did you meet any person ?—I met a gentleman in a carriage ; I thought it probable he might be coming to Carlsruhe, and I asked the post-boy whether it was the Baron D'Ende, and he told me it was.

What did you do in consequence of that information ? —I turned the carriage, overtook him, and gave him the Queen's letter, which was addressed to him, "The Baron D'Ende, Chamberlain to the Grand Duke."

Did you speak to the gentleman who was in the carriage?—I did.

By what name?—I asked him if I had the honor of addressing the Baron D'Ende.

What answer did he give you?—He told me that was his name, and I then presented to him the letter I had from her Majesty.

Did he open that letter?—He did, in my presence.

Did he read the letter?—Yes, he did; he then invited me into his carriage, and drove me back to Carlsruhe with him.

To what house did you drive at Carlsruhe?—To his own house, the house at which I had previously called for him.

You had some conversation with him on the road and at his house, had you not?—I had.

From the conversation that you had, have you any doubt whether it was the Baron D'Ende with whom you were conversing?—I have not the slightest doubt of it.

How long did the Baron D'Ende remain at Carlsruhe?—He informed me that he had business that would detain him till Tuesday, and that his minutes were at Baden; and that without consulting those minutes he could not answer accurately the questions I had asked him.

Did you remain at Carlsruhe?—I went to Darmstadt almost immediately that I had left the Baron D'Ende, and did not return to Carlsruhe till the Tuesday following in the evening.

When did you next see the Baron?—On the Wednesday morning.

What did he say to you upon the subject of his coming?—He took me in his carriage to Baden; about mid-day we started, and arrived there about five or six in the evening; this was on Wednesday the 20th.

When you arrived at Baden, what did you do there?—I took down his deposition in writing; he consulted his diary or journal he keeps of every day's transactions, and I took down his deposition in writing.

Did he show you any letter he had received?—He showed me several letters he had received from her Majesty, directed to him as the Baron D'Ende.

The Solicitor-General objected to hearing any thing further as to the contents of those letters.

Mr. Tindal observed that the contents were not intended to be offered in evidence. The question was put only with a view to show the identity of this person as Baron D'Ende.

How long did you remain at Baden with him?—Only that evening; I left Baden at five o'clock the next morning, and did not see him that morning.

When you left Baden, had the chamberlain stated any thing to you about his coming over to England?—Yes, he had; he said that as the information he was going to give would be in his official capacity, his friends thought he could not go without the consent of the Grand Duke.

Do you know whether the Grand Duke was at that time at Baden?—I know he was absent from Carlsruhe and from Baden; he was on a tour.

Did you learn, through the Baron D'Ende, when the Grand Duke returned?

The Attorney-General objected to this question, as to what the Baron D'Ende told the witness of the Grand Duke's return.

Mr. Tindal maintained that the question was a proper one.

The Earl of Liverpool thought that, as the documents respecting the circumstance were before the House, the question might be allowed.

The Solicitor-General submitted that those documents were not evidence.

Did you learn from the Baron D'Ende when the Grand Duke returned from Baden?—On the evening of the 20th the Baron D'Ende said, that the Grand Duke was not at Carlsruhe, and that the instant he returned he would come to Carlsruhe to ask his permission to go.

Do you know whether he afterwards went to the Grand Duke to ask his permission?—On the morning of the 23rd of September he called upon me, and he had in his hand the letter of her Majesty; he told me he was then going to the palace to ask permission to go as a witness; I went to the door with him, and I saw him go towards the palace; in about half an hour I saw him

again in the street; I went out to him to speak to him, and he addressed me by saying, "I have bad news for you; I am not permitted to go."

Did he afterwards take you to his house?—Yes, he did; he took me to his house; he appeared agitated, and extremely vexed that he was not permitted to go; and he caught hold of my hand, and put my hand to his heart, and said, "Feel how my heart beats."

Did you after that make any other application to him?—On the same morning, about an hour or two afterwards, I wrote him a letter, of which I have a copy here; I was fearful he might be out; I intended to have spoken to him, but fearful he might be out, I wrote a letter, and left it for him, for he was out when I called.

Was that addressed to Baron D'Ende?—It was.

And left by yourself at his house?—Yes.

Did you receive any answer to that letter?—By a friend of the Baron D'Ende, a lieutenant in the life guards of the Grand Duke.

Do you remember his name?—Schweitzer I am confident his name is.

Was that answer a written answer or a verbal one?—A verbal one.

What was the answer that he sent to you?—That he could not make the deposition without the consent of the Grand Duke, and that he declined sending a written answer to her Majesty's letter.

The witness was directed to withdraw.

Mr. Brougham then addressed their lordships: he had now to call their attention to the various and insuperable difficulties interposed against the further prosecution of her Majesty's defence. He did not mean to cast blame on any person; the blame, in fact, was chiefly attributable to the proceeding itself. It was now, however, manifest that they could go no further with any chance of equal justice to the parties in this suit. Their lordships had seen that the Grand Duke of Baden did at least not compel the Baron d'Ende to make his appearance at their bar. He had indeed given him a *congé*—a word of ominous sound in the ears of a courtier—a word, the fearful import of which must strike a painful sensation in the hearts of some of their

lordships: for a *conge* was, as many of their lordships knew, not so much a permission to go, as a permission never to come back: it was tantamount to saying—"never see my face again;" it was the word appropriated to the resignation of ministers, for ministers were of course never turned out: it was the word which, in France, sent a man to his country-seat never to return; and no doubt was of similarly dreadful import in a German ear. No wonder then that the chamberlain, as soon as he saw the terrific expression written in plain German characters, was taken extremely ill; he (Mr. Brougham) verily believed that the sickness was not feigned, and that if Mr. Leman could have felt on this occasion also that part of his frame where his heart was lodged, he would have found a more violent palpitation there than when the worthy Baron had invited him to feel its throbs. But it was somewhat strange that none of the reasons which restrained the Baron from coming over had operated to prevent Kress, a witness for the prosecution, from leaving the territories of the Grand Duke. She was forced to come; that is, forced under the compulsion of Berstett. This, too, was done at the instigation of the Hanoverian government, the second branch amongst the authors of this prosecution, and the active employer of the Munsters, the Radens, and the Grimms, and all the crew. But, as he had already said, he threw no blame on any of these parties; they had labored in their vocation as well as others, and they were under a necessity of acting as they did. He had therefore now seriously and solemnly to appeal to their lordships' justice, to consider this subject as no light or trivial matter. It was in evidence before them that the ministers and agents of the British government abroad had not the power of running into places, and extracting evidence—material evidence for the vindication of her Majesty, although it was with perfect ease that evidence against her might be obtained in the same quarters. He felt obliged again to repeat, that he threw no blame on any person; but he submitted, that from causes beyond the control and jurisdiction of that tribunal which he had now the honor of addressing, it was impossible to proceed fur-

ther with any justice to the case of the defence. Undoubtedly their lordships must be of the same opinion, and sure he was, that the august monarch who now filled the English throne would be the last to desire any conclusion that should not work perfect justice to his royal consort.

The counsel were directed to withdraw.

Lord Holland moved, that part of the evidence of Meidge Barbara Kress should be read from page 192 of the printed evidence. *(Ch. p. 170-1.)*

The following part was then read by the Clerk of the House.

"Were you ever at Vienna upon this business?—No.

"Did you ever see Colonel Brown?—No.

"Did you ever see Colonel Deering?—I know not what was the name of the gentleman where I was.

"Where were you, in what place?—At Hanover.

"When did you go to Hanover?—It was on leaving the post inn I was called to go there; the same quarter of the year.

"Who called you to go there?—Monsieur de Reden.

"How long did you remain at Hanover upon that occasion?—Six or seven days, I cannot tell exactly.

"Were you examined there upon this subject?—They asked me whether I had seen such and such things.

"Did you go back from Hanover to Carlsruhe?—Yes.

"What did you get for going to Hanover?—I received a small payment, just for the time I had lost."

Lord Holland then moved, that another part of the same evidence from page 202 should be read.—*(Ch. p. 268-9.)*

The clerk then read it as follows:—

"Who was it that told you you should get compensation?—The minister, our minister.

"Which minister?—I said to him I must be compensated for the loss of my situation; that I should lose my place by it, and I must receive some compensation for it.

"What minister are you speaking of?—Monsieur de Berstett; that gentleman told me that if I would not go voluntarily, I should be forced.

"Whose minister is he?—I cannot tell this.

"Is he not minister of the Duke of Baden?—I do not

know whether he is minister of foreign affairs, or for the interior.

"Did he not come to the room in the inn where you lived?—Not Monsieur de Berstett.

"Did not Monsieur Von Reden come to look at the rooms in the inn, while you were there?—I did not see him.

"Do you not know that he was there?—I cannot tell, I have never seen him.

"Did you see, after the Princess left the inn, any other gentleman come there to look at the room?—I have seen nobody except Herr Von Grimm, who came in the rooms, and walked about there; he lodged in the inn.

"How long had Herr Von Grimm lodged in the inn, before the Princess came there?—I cannot say this, I have not paid any attention to this, I had other business.

"What part of the house did Herr Von Grimm lodge in?—He lived in that house, in No. 13, and his brother in No 14; before the Princess arrived he lived in No. 12 and 13.

"Did he not give up No. 12 for the accommodation of the Princess?—Yes, as much as I have seen.

"Did he not return after the Princess left, and go into No. 12, to look at what was there?—Yes, he run about just when the rooms were left open, and he took again the room afterwards.

"Was there any body with him when he came to look?—When he ran about in the rooms there came two other gentlemen, one of them was his brother.

"Was he a German or an Englishman?—I do not know this, neither; I have never heard them speak, and I did not pay any attention to it.

"What is Herr Von Grimm?—As much as I could hear, he is the Ambassador of Wirtemburg.

Lord Holland then moved, that the letter from Baron de Berstett to Mr. Lamb, the British envoy at the court of Baden, dated Oct. 13, should be read. This was accordingly done. (For this letter see page 123.)

Lord Holland then said, that he did not rise to make any specific motion, but to call, in the most solemn manner of which he was capable, the attention of their lord-

ships to the passages of evidence just read. It was because he could not reconcile it to his duty to omit this call, that he now made it.

Counsel were called in.

Mr. Brougham said, that under the extraordinary circumstances in which he found himself, and with a lively recollection of what had passed at a preceding stage of the inquiry, he still felt the utter impossibility of proceeding further in the defence of his illustrious client.

The Attorney-General remarked, that it was his undoubted right, and also his intention, to call witnesses who would contradict the allegations made on the part of the defence.

The Lord-Chancellor here observed, that undoubtedly it was competent to the learned counsel who were at the bar in support of the bill to call new evidence, and the counsel on the other side could not sum up their evidence until it was ascertained what new evidence was to be so produced. It was, however, for the consideration of the Attorney-General whether he would produce fresh testimony or not.

The Attorney-General begged to assure their lordships that it was far from his intention to call one witness to their bar whose testimony he did not think most important, as affecting the merits of this case. It was, however, incumbent on him to call evidence as to matters introduced in the course of the defence, but which were not even alluded to in the opening speech of the counsel on that side. In that speech no reference was made to the positive existence of a conspiracy; some reasoning founded upon hypothesis merely was made use of, but the assertion of a conspiracy upon the part of her Majesty's prosecutors made no part of the original ground of defence. It was not till a critical moment in the conduct of that defence arrived that the notion of a conspiracy began to be entertained. At that moment it was that witnesses were called in to speak of the alleged misconduct and undue practices of Colonel Brown. For the first time it was then insinuated that he had been engaged in suborning evidence, and even in purloining papers. On the instant that this evidence was given, he had thought it his duty to apprise Colonel Brown of its

effect; but Colonel Brown was then at Milan, and he had not the means of producing him readily at that bar. Their lordships would not excuse him if he were to call other witnesses in the mean time, after an attempt had been made—(how futile he would not then stop to inquire, because he had no right to reason upon evidence on that side)—but after an attempt had been made to raise a charge against the prosecutors of the bill, he was sure their lordships would not excuse him if he did not postpone all other evidence which he might have to tender (and it was abundant), to that of Colonel Brown himself. Many were the individuals whom he might find it necessary to call, but Colonel Brown was their chieftain. Without his presence and testimony, he could not affect or pretend to do justice to his case. He trusted, therefore, that their lordships would allow him some time in order to obtain the evidence of Colonel Brown, and to hear his contradiction to the foul aspersions which had been cast upon his character and conduct. On their lordships' indulgences he now threw himself; he craved some time to enable him to encounter and defeat the attempt made on the other side, and would contend that it was the height of injustice to preclude the testimony which he was prepared to offer, if the necessary interval were allowed.

Mr. Brougham.—And now I ask, whether I am to regard your lordships as a court of justice?

The Solicitor-General said, that before his learned friend, Mr. Brougham, opened his reply, he wished to add one or two observations to what had been already stated by the Attorney-General. He and his learned friends engaged on behalf of the prosecution had deeply considered this part of the question, and did regard the evidence of Colonel Brown as most material to their case. Had his learned friend (Mr. Brougham) on the other side, distinctly referred to the subject of a conspiracy in the opening of the defence, Colonel Brown would have been at that moment in attendance. As this was not the fact, and as it was alike essential to the merits of the case, and the vindication of Colonel Brown, that he should have the opportunity of laying his testimony before their lordships, he and his learned friends

had concurred in this application. It was for their lordships to decide whether it was just or unjust; but they all knew that charges of misconduct and conspiracy had been unexpectedly raised, and it was too much to complain that an opportunity was sought of repelling them. There had been no specific notice of these charges, and as soon as they were brought forward, his learned friend, the Attorney-General, had desired a messenger to be sent to Milan, for the purpose of calling over Colonel Brown. On these grounds he did not appeal to the indulgence, but to the justice of their lordships: he claimed as a right due at their hands, that they would not permit any reasonings or arguments to deprive his case of so important a member of it as the refutation of the charge preferred on the other side.

Mr. Brougham.—Nothing which he had heard from the Solicitor-General or from his learned leader could induce him to give up the question which he had before submitted—whether or not their lordships now constituted a court of justice? He had been tied down, he had been bound by his learned friends on the other side in nine-fold technicalities; he had been impeded at every step he took through the mazes of that conspiracy which it was his object to develop. He was then referred to the rules of courts below, and to the principles of justice as formally laid down in other places. But now, when they were called on to abandon every principle observed in those courts, every rule, and were about to fly in the face of all regularity, about to do what never yet entered into the head of a legal practitioner, they were told that they were a body of men exercising a most ample discretion, and might regard themselves as sitting judicially or legislatively as they pleased. They were indeed not to be bound down by rules; but he would ask them whether, since forms and modes, those handmaids of justice, were first introduced—whether since justice was first administered in this land, any thing so monstrous had been, he would not say entertained, but attempted? Who or what was this Colonel Brown? Was it because he was incidentally affected in the course of these proceedings that the Queen of England was to be forgotten? Forgotten! did he say?

No, injured, trampled upon? Was it because this lieutenant-colonel, in he knew not what regiment of hussars, but in he knew what Milanese commission—was it because the character of this man was brought somehow into jeopardy, that the interests, the rights of her Majesty, were to be lost sight of? And against whom was this monstrous novelty directed? Against one entitled to every advantage, upon every principle of law, where the balance was supposed even between the prosecutor and defendant? But it was now apprehended that a favorite agent had got into danger; and though it was obvious that his case must be disposed of ultimately after the present proceedings were brought to a termination, it was asserted on the other side that they were taken by surprise. He would not then stop, to argue that point, but contend that it was utterly new, that it had never before been heard of in any court of judicature, that the prosecutor should have a liberty of suspending an inquiry in order thereby to be enabled to mend his case, or to defend his agent. If, indeed, he should argue the point to which he alluded, he believed that every principle of English law might be quoted in his favor. But it was in fact not true that they were taken by surprise on the other side. In his opening speech, they who had done him the honor to attend to it must remember, that though he charged no conspiracy directly —although he abstained as much as possible from the use of the odious word, and although he had treated the conduct of the agents at Milan as conduct which merely went to damage the Queen's cause, and had tendered evidence with a view only to that proposition, he had at the same time added, that these persons, without applying any fresh epithets to them, had acted in that way which conspirators and plotters would certainly have adopted, and without which they could not have carried their measures into effect. Could any man in his senses believe, for one instant, that the getters up of this prosecution expected to steer through their whole case without one attack being made upon Brown or others? On the answer of every honest mind to this question he would rest his objection to this last and hitherto unheard of application. They on the other side were, he repeated

it, not taken by surprise. Their object was to rebut Pomarti's evidence; but had not their lordships themselves observed what took place the moment Pomarti's name was mentioned? Had they not seen how his learned friends on the other side instantly drew forth from their bags a brief dedicated to the use of Pomarti. These innocent gentlemen, the agents of yet more innocent persons, no sooner heard the name of Pomarti announced, than they found in their repositories something that suited him exactly. How were they qualified to cross-examine Pomarti as they had done, except by the information which they had received from Milan? Would their lordships believe that these simple, innocent, and ignorant persons, knew nothing of a certain process which had been carried on at Milan, and in which damages were sought against Vimercati for the part he had taken in a conspiracy? They were, in fact, in possession of all the evidence which they could derive from Colonel Brown in person; but whether they had or not, was not material to the question in the view he took of it. If the cross-examination were referred to, it would be seen that many questions were put on points that must have been supplied by Colonel Brown, and which clearly indicated that Brown was previously aware of the effect of Pomarti's evidence. His learned friends—he ought to say their employers—never had the audacity to intimate that Colonel Brown was not a party to the whole of their proceedings. They would scarcely say that he had not received due notice, or that he had not been furnished with a list of witnesses. He, and his friends who acted with him on her Majesty's behalf, had felt all along the possibility of such an application as that now made. But would their lordships stop short? Would they suspend her Majesty in that state of irritation, or rather disease, such as he never before saw afflicting a human creature; would they, when they turned their eyes to that situation in which the illustrious victim had been so long detained, would they then heap a new wrong upon her head by departing not only from all the ordinary rules of courts of justice, but from rules laid down by themselves in this very process? Would they, by a proceeding at once

wild, lawless, and, in short, unknown, plunge into irregularity for the first time? Such a proceeding would be strange to all our courts, and strange to all our lawyers; and the more strange, that it should be adopted at such a period of the inquiry, that evidence should be tendered at such a moment, to mend a case, rotten in itself originally, and utterly destroyed by the defence. This, indeed, would be to combine oppression, wrong, and irregularity, for the purpose of needless, and gratuitous, and shameless cruelty.

Mr. Denman followed on the same side, and observed that he should consider himself as deserting his duty if he did not contend, before their lordships, that the concession asked for on the other side was without any principle or any example. What, he would ask, was the ground on which this before unheard-of application was made? The ground was simply that Colonel Brown was not in England, but in Milan. But the counsel for her Majesty complained of this very fact. They contended that Colonel Brown ought to be in England—that he ought to be here to explain his conduct, and to defend his practices. But, because he was not here, was the case of the Queen to be injured? Was her situation, on that account, to be rendered worse? It was, perhaps, the most anomalous point in this most anomalous proceeding that her Majesty was ignorant of the mode by which she had been brought to trial. She knew not whether the charges proceeded from the Milan commission alone, or had been issued under the sanction of the Court of Hanover. Their origin was, however, only to be looked for amongst the proceedings of the Milan commission, or in the archives of Hanoverian justice. Either from the Milan commission, or from the Court of Hanover, these proceedings emanated; and it would be most shameful, when the case for the defence had been brought to a conclusion, if the evidence of persons sent out from England on this commission—evidence that had not before been tendered—were to be admitted, in order to make out a new case. The courts of justice below had been much talked of; but they ought to blush, and hide their heads, when those courts were mentioned. What

individual had ever been cited before those courts, who was ignorant of the proceedings which had led to his trial? He must know his prosecutor; he must know that depositions against him had been taken before a magistrate; and he must also know that evidence was adduced before a grand jury, sufficiently strong to justify them in finding a bill of indictment. But here not one of those preliminary steps had been observed. Therefore, so far from Colonel Brown's absence being a good reason for granting the extraordinary indulgence that was required, it was, in fact, a reason for the further condemnation of the course that had been pursued. Colonel Brown ought undoubtedly to have been here, at all events, as a Milan commissioner, in the first instance, if he were not required as a witness in the second. But Colonel Brown's character was to be cleared! Yes, the character of every body was to be purified, except the character of the Queen of England. He (Mr. Denman) had not condemned the Milan commission—he had said nothing about it. Still, however, he did not know but that he might have to charge every one of those three commissioners with the grossest and the most infamous misconduct. He did not mean to say that he would do so; he did not mean to assert that he had evidence of that nature; but he would contend that, if he had such evidence, he possessed the right of bringing it forward. But, when he stated this, he was met by a thousand panegyrics, not only on these gentlemen, but on the character of Mr. This and Mr. That—in short, on the character of all those who were concerned. He was stopped at the threshold of this part of his defence by panegyrics on some persons who were known to have been employed, as well as by eulogies drawn up in blank for any person whom circumstances might bring into notice. He complained of the absence of Colonel Brown, who ought to have been in this country; he complained of the pretence on which this additional delay was now called for—called for, he would say, with no more regard for her Majesty than if she were the inanimate subject of a chemical experiment. It was false to say that the counsel on the other side did not know that witnesses

were to be called with respect to the Milan commission —it was false to say that no expectation was entertained of their conduct being inquired into. From the commencement of the proceeding, inquiries had been made as to the conduct of Vimercati and Colonel Brown—inquiries had been constantly directed to the witnesses, in order to discover whether they had not been tampered with. Questions relative to that fact were put to Majochi, and to every other witness. How then could it be said that nothing had been done which could lead to the inference that the conduct of the commissioners would not be considered? It was quite clear that a contrary inference must have been drawn from all that had occurred. It this were the fact, why was not Colonel Brown present? The same ship that brought over Pomarti, whose statements must be fresh in the minds of their lordships, might have carried over Colonel Brown himself, who ought at that moment to be present at their bar. He would not condemn Colonel Brown unheard; but he would not condemn the Queen, on account of his absence, to a further protraction of her most painful situation. In any case it would be a most unjust proceeding; but it was still worse in a case where female character and female feeling were so deeply affected. If delay were now granted, he must consider that delay to be indefinite. What was there in the proceeding that justified his learned friends in asking for this indulgence. This was a divorce bill—a bill also of pains and penalties. As a divorce bill it was originally defended and attacked. But the next day after that defence and attack they were told, by authority which could not perhaps be contradicted, that the divorce clause was not an important part of the bill. Some supposed that that portion of the bill was to be given up, and that their lordships had nothing to do but to inflict the pain and penalty of expressing an unfavorable opinion on the conduct of this illustrious lady, without following up the proceeding any further. Supposing it to be so, still their lordships must arrive at their conclusion by considering how the evidence bore on the facts stated in the preamble of the bill; on that, and on that alone,

could they decide. He denied that the indulgence now called for was necessary to that decision. If such an indulgence were granted, it must necessarily be reciprocal, and thus there would be no end to those proceedings. And when he heard what was going on around him in the world, he did not doubt but that the delay was called for with that very view by some of those persons with whom his learned friends were in communication. If Colonel Brown were allowed to be examined, every witness whose conduct was called in question, every individual whose name was mentioned in the course of these proceedings would have a right to be heard in exculpation. Their lordships would have to send every three weeks to Milan, to see how far the testimony of those persons could be shaken, or on what points it could be confirmed; and this unwieldy process, almost too unwieldy for the frame of man to bear, and almost too intricate for the mind of man to comprehend, would never be brought to a termination. They had been told, that though her Majesty would be allowed no list of witnesses—though no specification of time or place would be afforded her—though no particular offence would be pointed out to her—still she should not suffer by this proceeding, because she should be allowed almost her own time to bring forward her defence, and to conclude it. That time had now come. The circumstances of her Majesty's defence had been developed, as far as it was in the power of her Majesty's counsel to lay them before their lordships; and they, in the exercise of their discretion, thought they had a right now to bring that defence to a close. Were they, then, at this moment, to be again deluded and deceived? Three years ago the Milan commission was sitting; and, instead of stating that her Majesty's counsel could, in the opening of the defence, have adverted to the evidence of Pomarti, it would have been better if his learned friends had inquired whether Pomarti was in the country when that opening was made. It was competent for them to have done so; and, had they adopted that natural course, they would have found that the fact was not so. They would have learned that Pomarti had not arrived in time to enable his learned friend, Mr. Brougham,

to have made such a statement. But, looking to every other part of his learned friend's opening, it was quite clear that the conduct of the Milan commission was intimately connected with this proceeding; it was most evident that its character would be frequently referred to; and, if his learned friends were not ready to defend the conduct of the commissioners, was the Queen to be subjected to the excruciating torture of still longer delay? The question was, as his learned friend had stated it, "Are you or are you not, an English court of justice?" If they were so, let any instance be pointed out, in an English court of justice, where the defence made against a prosecution was assigned as a reason for delaying the decision. It was fit that their lordships should look a little to the mode in which this case had been conducted. When he and his learned friend proceeded with the defence, they asked for no indulgence; they demanded, as a matter of right, to state those facts, the introduction of which was made the foundation of the proposition for delay. If they had no right to do so, why had they not been stopped? Surely they ought then to have been told, by the other side, "You must now make your election, and proceed as you think proper, either to call those witnesses, or to abstain from doing so; but we now apprise you, that if you intend to call them, a longer time will be required, in order to enable us to contradict their evidence." They ought to have been told that such an election would be admitted. They were not, however, asked to make any such election—no such notice was given to them; but they were now taken entirely by surprise, as they had before been by the application relative to the fictitious witnesses from Lugano, about whom they heard not a word until the application for delay was made. Without having previously uttered a word relative to those supposed witnesses, the counsel for the bill were allowed all the credit of having summoned them, and of being deprived of their evidence merely by adverse circumstances. This was a fair subject of complaint, because her Majesty's counsel could not have calculated on such an application; neither could they, in the present instance, have contemplated that a delay would be demanded. He relied on what they had fre-

quently heard declared by their lordships, namely, that they were in a court of justice; and he called for equal and impartial justice. From the beginning, her Majesty's counsel had no such indulgence granted to them, and he hoped that it would be refused to the other side. In the first instance the Queen desired that the whole proceeding should be delayed till all the evidence was collected, for the purpose of at once bringing the case to a conclusion, as if it were in an ordinary court of justice. That was, however, denied. The prosecution was then allowed to go on; the charge was completed, and time was given for the defence. Good God! would their lordships now, after the prosecution was completed in all its parts—after the case had been opened in the strongest terms by the Attorney-General—after evidence had been heard in support of the charges—after the Solicitor-General had summed up with all his ingenuity—after that summing up had been laid before their lordships, and before the country, unanswered, for some time—would they now, after all this, grant a further delay?—All the consolation they had, when the proceedings for the prosecution were closed, was derived from the statement, that, if her Majesty's counsel could prove the charges which were then sent forth to the country to be infamous slanders, they could have nothing to fear from their lordships at the termination of the case. Her Majesty's counsel had demonstrated by evidence, they had demonstrated by argument, they had satisfied the country, they had satisfied all posterity, that her Majesty had been foully and falsely accused; and he now called on their lordships to pronounce a verdict of acquittal.

The Attorney-General, after the experience he had had in the course of this proceeding, did not feel the least surprise at any misstatement or misrepresentation that might be made by the learned counsel at the other end of the bar. He was now accused with making an application before unheard-of in a court of justice—one not only unsuited to forward the ends of justice at their lordships' bar, but an application of such a nature as was unthought of in any judicial court. They were again assailed, for the twentieth time, with a representation of

the hardship of her Majesty's situation with respect to the present defence. But he would maintain that, so far from there being any hardship imposed on her Majesty, she had enjoyed very great advantages. It was true she was furnished with no list of witnesses, with no specification of places or times, but she was allowed that which was of much more importance. The witnesses in support of the bill had been examined at their lordship's bar, and then her Majesty was allowed all the time that was deemed necessary to prepare for her defence. Yet they were told, with this fact fresh in their remembrance, that her Majesty came to her defence under the most serious hardships and disadvantages. He submitted that the contrary was the case. The witnesses were produced against her, every fact was substantiated by proof, and full time was allowed to enable her Majesty to answer the case. What had he (the Attorney-General) to complain of on this occasion? Not only that her Majesty's counsel had not opened the case they intended to prove, but that they had denied circumstances to which they had adverted. His learned friend, Mr. Brougham, said, that the word conspiracy, with reference to the Milan commission, had never dropped from his mouth; and his learned friend, Mr. Denman, declared that he had never said a word about the Milan commission at all. But, though they might originally have said nothing about a conspiracy, yet their lordships would recollect that, after the examination of Flynn and Hownam, his learned friends took another course. They then went into that collateral inquiry relative to the subornation of witnesses in support of this bill. They did much more; having failed to prove that any witness had been suborned, they set up another case—that a conspiracy existed for the purpose of suborning other witnesses, and by that means they endeavored to let in fresh evidence. They endeavored, from that evidence, to infer, that though the witnesses who had been called were not suborned, still that a conspiracy did exist with respect to persons who had not been produced at their bar. He had objected (and in that opinion he was borne out by the opinion of the learned judges) that such evidence could not be received. Their lordships would,

however, recollect, that evidence of this description was allowed to be called, he himself not being very anxious to prevent it, although as a lawyer he could not comprehend its propriety. When, in consequence, this inquiry was entered into, he laid his claim before their lordships, that if evidence of any conspiracy was given at their bar, he should be allowed time to bring forward counter evidence; and his learned friends should in candor have said that they did mean to pursue such a course—that they would abandon the facts alleged against the Queen, and go into this collateral inquiry. He should then have stated that there was no ground for going into such evidence, and that if his learned friends did so, he must be allowed an opportunity of contradicting at the bar the matters so sworn to. His learned friends accused him with desiring their lordships to abandon the case of the Queen, and to go into evidence respecting the conduct of Colonel Brown. That was not the fact; but when an attempt was made to show that Colonel Brown had acted corruptly on this occasion, he conceived that he ought to be called to deny the statement. His learned friends could not fairly argue that they had been taken by surprise: when they introduced such evidence as they had thought proper to do, they must have known that an effort would be made to disprove it. His learned friend, Mr. Brougham, had said that he never used the word conspiracy with respect to the Milan commission; and his learned friend, Mr. Denman, observed that he had never said a word respecting that commission, but that he would, one by one, charge the commissioners with the grossest and most infamous misconduct.

Mr. Denman begged pardon of his learned friend. He did not assert that he would so charge the commissioners; but that he might do so if it were necessary for his case to produce such evidence.

The Attorney-General.—Well, then, had his learned friends done with that part of the subject, or did they mean to call more evidence, and enter into a new case? He asked for the opportunity of calling Colonel Brown to the bar, in order to contradict that portion of the evidence which related to him. He did so, because up

to the period when Mioni and Pomarti were examined, no man could have imagined that such a course of inquiry would have been entered on. His learned friends should have previously stated what they meant to do. But, in the statement of his learned friend, Mr. Brougham, and in the more detailed statement of Mr. Williams, not a word was said as to the line which was afterwards pursued by them. Therefore, he maintained, he was not making an unheard-of application, an application unknown to courts of justice, when he asked for time to enable him to bring forward evidence on this new point. Mr. Denman had insinuated that he was instructed to make this application by some persons who wished to protract these proceedings. He (the Attorney-General) knew not whether his word would be taken by their lordships; his learned friend would, perhaps, doubt it; but, in defence of his character, he must state that this application was made after due consideration and serious consultation with those who were better enabled to give a sound opinion than he was—he meant his learned friends who then sat around him. His learned friend had also stated, what he must take the liberty of saying ought to have been supported by better authority before he had asserted it, that he (the Attorney-General) had formerly made an application for delay, founded upon a representation relative to fictitious witnesses, said to be expected from Lugano. He would be unfit to appear at their lordships' bar or any where else, if he could have acted in that manner. Their own witness, Teuille, had stated that he met a man of the name of Rossi at Paris, who was on his way from Lugano to this country; and yet his learned friend had insinuated that he (the Attorney-General) had the wickedness to apply to their lordships for delay on account of witnesses that did not exist. His learned friend knew as well as he did, that, though not ready to appear at their lordships' bar, some of those witnesses who had been stopped were now in this country. But to inflame their lordships' passions, or the passions of others, those groundless insinuations were resorted to. He would not, however, permit his character to suffer on this occasion by statements of such a nature. No man ought

to be tolerated in society who would endeavor to play so base a trick upon their lordships. His learned friends, in speaking of what they termed this unheard-of application, seemed to think that he wished to change their lordships from a court of justice to some other tribunal, where there was no justice. He would, however, say, that in justice not only to Colonel Brown, but in justice to all the parties concerned, an opportunity should be given to him to contradict Mioni and Pomarti, by placing the colonel at their lordships' bar. The counsel for the bill had no right to expect from any thing that had been dropped by his learned friends, Mr. Brougham and Mr. Williams, or from any thing that had been hinted at by them, that evidence affecting Colonel Brown would have been adduced. His learned friend, Mr. Brougham, had, with his usual ingenuity, commented on the evidence given at the bar, and on the way in which it had been brought into this country; but he had said nothing of a conspiracy, nor had he noticed any misconduct on the part of the Milan commission. Therefore, he was justified in stating that it was a surprise on him and on their lordships when his learned friend pursued the course of examination he had recently done. If it were not material to the Queen's case, why was such evidence introduced? If it were material, and it was introduced without previous notice, he asked not their lordships' indulgence, but he demanded the exercise of their justice, in allowing him to call witnesses to the bar to rebut that part of the case so introduced. He had no wish whatsoever but to do strict justice in the performance of the duty that had been imposed on him by their lordships. He had no other wish but that these proceedings should terminate as soon as possible, consistently with the principles of justice. His duty he would perform, without regard to any calumnies or insinuations that might be cast on him by his learned friends at the other end of the bar, or by any other individuals. He would, at whatsoever hazard it might be, do that which he conceived to be just and legal. It was his conviction that he ought to make this application, and it was for their lordships to deal with it as they pleased. He trusted their lordships would not be

directed by any thing that might be said on this subject either there or elsewhere, but that they would, as he was sure it was their intention, consult only the best mode of obtaining substantial justice in deciding on the case then pending before them.

The Lord-Chancellor said they had now arrived at a most important stage of these proceedings; and if no particular circumstances had arisen, he took it for granted that they would now have gone on in the regular and ordinary course. The Attorney-General, he conceived, acted perfectly right in making the proposal, and her Majesty's counsel were equally justified in opposing it. In his opinion witnesses of the description alluded to might be called, under the limitations and restrictions which must always apply to testimony so introduced at their bar. He owned that the subject came somewhat hastily before him; but unless he very much forgot what had previously occurred, many of those among their lordships who thought fit to allow the evidence to be produced which had been given towards the close of this proceeding, argued for the admission of that testimony on the express supposition that time would be given for the appearance of Colonel Brown. He felt bound to state that, as one of the grounds for the motion he intended to submit. If the Attorney-General had been justified in requiring delay, the other side had been equally warranted in resisting it; but whether the application should or should not be granted remained for the House to determine. The application had been made upon two grounds, and he (the Lord-Chancellor) begged to preface the statement of them by observing, that in the course of the argument just concluded many topics had been urged to which at this moment it would not be proper for him to refer, but which must be most gravely discussed and considered by their lordships hereafter. The two grounds were—first, the charge against the character of Colonel Brown; and, secondly, with reference to the bearing of his evidence on this inquiry. The House was able to appreciate in what way and to what degree the character of Colonel Brown was implicated: but, with regard to the second ground, and what was supposed to belong or not to belong to the proceedings of

courts of justice, it must be remarked that there was always this difference between proceedings of parliament and of the ordinary courts of justice—that, in the latter, a trial must be continued from day to day. This practice had been introduced only of late, and nothing but the absolute necessity of the thing could justify it; but he could not call to mind a single instance of a postponement of the nature now proposed. On the other hand, from the nature and constitution of parliament, it was, he apprehended, a very usual thing to adjourn, where a case to justify it was previously made out. No man who could suffer his reason to be addressed through his head to his heart would be satisfied, unless that necessity were fully established. Under these impressions he took the liberty of assuring their lordships that he was not, without an interval, able on this subject to arrive at a satisfactory conclusion. Only about 30 minutes yet remained before the arrival of the hour of adjournment; and as he was anxious and desirous to impose upon himself the task of looking accurately and attentively at every part of the evidence on the minutes, for the purpose of forming an opinion, whether consistently, not with the technical forms of justice, but with its substantial rules, this delay ought to be conceded, he wished much to be allowed to devote this evening to that investigation, that he might be able to-morrow morning to submit to the House his deliberate judgment upon the point now before it. His lordship, therefore, humbly requested their lordships to permit him to defer his motion until to-morrow morning.

OCTOBER 24.

Counsel were called in; and the counsel in support of the Bill were informed, that the House does not think fit to grant the delay proposed, but that it is the opinion of the House that they should now proceed.

Captain *Thomas Briggs* was again called in, and further examined by Mr. Attorney-General, as follows:

You have stated that you commanded the Leviathan at the time her Royal Highness was on board that ship? —I have.

Do you remember Lieutenant Hownam being on board that ship with her Royal Highness?—I do.

You have stated that Bergami also was on board that ship?—I have.

Do you recollect having any conversation with Lieutenant Hownam upon the subject of Bergami?

The *Attorney-General* of the Queen stated, that he felt himself entitled to object to this evidence, but that he waived the objection.

The question was proposed.—I do.

Was it a conversation about Bergami's being admitted to a seat at her Royal Highness's table?—It was.

State what Lieutenant Hownam stated to you upon that occasion?—I observed to Lieutenant Hownam in a conversation, that Captain Pechell had told me that Bergami stood behind his chair when the Princess was embarked on board the Clorinde frigate, and I asked how it was that he was now admitted to her Royal Highness's table? upon which he replied, that he was sorry it was so, he was sorry the Princess had admitted him, that he had entreated her on his knees, and with tears in his eyes, not to admit him to her table, but to no purpose.

Did he state to you when this happened?—No, he did not state the immediate time.

Do you recollect whether he said any thing upon that subject at that time?—I understood—

Mr. *Brougham* objected to the answer.

What did he state?—I recollect that he intimated to me—

Mr. *Brougham* objected to the answer.

To the best of your recollection, what did he state?—To the best of my recollection, he told me it was the day in which the situation of Bergami was changed, that is to say, the very first day that Bergami dined with her Royal Highness at table.

Cross-examined by Mr. *Brougham.*

When did this conversation on board the Leviathan happen?—It happened when the ship was on her voyage between Port Ferrajo and Palermo.

What year was that?—In 1815.

What time of the year?—The month of November.

Who was present at the same time?—I do not recollect that any one was.

Try and recollect?—We were in conversation together walking the deck, Mr. Hownam and I, as we occasionally did after I became acquainted with him.

You frequently used to walk with him on the deck, talking on various subjects?—Occasionally, not very frequently.

It is not meant every half hour?—No, not every day.

Occasionally?—Yes.

You do not mean to represent this as the only conversation you had with Lieutenant Hownam?—No.

Neither before nor since?—No.

Had you frequent conversations with him since that?—Yes.

You have seen him since?—Yes, he came down to me from Brandenburgh-house, and wanted to find out the nature of the testimony I meant to give here, on which I declined having any conversation with him on the subject; it was about seven in the morning he came to Portsmouth; on his taking leave of me, he said, he should feel obliged if I would tell him whether any alterations had been made in the cabins of the Leviathan, for that he did not recollect that there had been any; upon which I expressed my surprise, and brought to his recollection that alterations had been made, and made in his presence; he took his leave.

In short he had forgotten the circumstance you are now mentioning?—I presume so.

You mentioned something to him about Captain Pechell and Bergami; Captain Pechell had made some difficulties: had he not some objection to her Royal Highness having Bergami sit at table on board his ship?—He positively would not sit down with Bergami; no objections to her Royal Highness at all, but to Bergami.

He positively refused to permit Bergami to sit down?—I never heard him.

That was the subject of your conversation with Lieutenant Hownam?—No, the subject of my conversation with Lieutenant Hownam was, that he had stood behind the chair.

Were you not talking, upon that occasion, with Lieu-

tenant Hownam about the reason which had induced Captain Pechell to refuse to allow Bergami to sit down at his table?—No.

I understood you to say, you began by saying that Captain Pechell had said to you that Bergami had stood behind his chair?—Yes.

Did you not say so?—Yes.

Therefore you were talking about Captain Pechell and Bergami?—We were.

And you were mentioning an observation Captain Pechell had made to you about Bergami?—I was.

And that observation operated as a reason why Captain Pechell did not like Bergami to sit down at table with him, did it not?—I cannot say it did, because it was long afterwards that Captain Pechell objected to sitting down with him; it was not at that time, it was after Captain Pechell met the Princess the second time, which was at Messina.

Did you make any note of this conversation at the time it happened?—None whatever.

And you are now speaking as to what you recollect at a distance of five years?—I have a perfect recollection of that conversation.

When did you first repeat it again to anybody?—I believe I have mentioned it several times in conversation.

Do you recollect any one of the times?—I recollect it was brought to my particular remembrance from a letter I received, desiring to know whether such conversation had taken place.

About what time was that?—I suppose about seven or eight weeks ago.

While this proceeding was going on?—Since the House met the first time.

When did you first mention it after that you say that brought it to your recollection?—I wrote it in answer. I was called upon to say whether such conversation had happened, and I wrote that it had happened, that it was true.

You say that letter brought it to your recollection?—I did not mean that; the fact was never absent from my recollection at all.

It was never absent from your recollection a moment?

—I remember the conversation perfectly well, and have always remembered it; and when I was written to, to know whether such a conversation had taken place, I answered it, saying it had.

You say it was always in your recollection; will you name any other person to whom you mentioned it before that letter was written seven or eight weeks ago? —I have mentioned it once or twice; I mentioned it on several occasions; I perhaps could name who were present when I have mentioned such a thing; I remember once having told Sir George Cockburn it had happened.

You mean one of the Lords of the Admiralty?—Yes, that is some time ago.

How long ago?—I am at a loss to say; but I dare say many months ago, as many as four or five; but I had mentioned it long before I knew I was to mention it in this House.

Sir George Cockburn had been asking you some questions upon the subject, had he not?—No.

You began the conversation?—We were talking; I forget what led to my mentioning it; I remember the fact of my mentioning it to him; I declare I do not know what led to it.

You have had the honor of dining with the King lately, have you not?—I have, when he was at Portsmouth.

Since you were last examined in this House?—Since I was last examined in this House.

Re-examined by *Mr. Attorney-General.*

Have you the command of the guard-ship at Portsmouth?—I have, the Queen Charlotte.

And had at the time his Majesty was there?—I had.

Did you, when you dined with his Majesty, dine in company with other officers who had paid their respects to his Majesty at Portsmouth?—Yes, all the navy who were at Portsmouth; every one of the captains, without exception.

The witness was directed to withdraw.

Mr. Attorney-General stated, that as the case now

stood he should not trouble the House with any more witnesses.

Mr. Brougham stated, that it naturally arose for him to say whether he had any evidence in rejoinder to give in this case, to rebut any thing which had now been proved, and that under the circumstances in which he was now placed he had no evidence to tender.

The *Lord-Chancellor* then asked her Majesty's Counsel what it was their intention to offer next.

Mr. Brougham.—My Lords, to save your Lordships' time and trouble, my friend, Mr. Denman, tells me he is ready to go on.

Mr. Denman then proceeded to make his remarks upon the whole of the evidence—evidence which, he said it boldly, had satisfied his mind, had satisfied the minds of the learned friends with whom he acted, had satisfied the minds of all the people of England, and those too of all the civilized nations in the world, who were looking with a deep interest on those momentous proceedings, that his illustrious client had established such a defence as made it imperative on their Lordships to give her a most complete acquittal of all the charges which had been preferred against her. He wished to proceed to that examination with all that calmness and deliberation, and absence from all personal feeling and violence, which were so necessary to be observed in order to obtain a complete investigation of the truth. But it was not to be expected that, in the many interlocutory contests and debates which had arisen in the course of these proceedings, there might not have been exhibited a tone and a temper for which an apology was requisite—but it was no other than the enormous magnitude of the case, and its tremendous consequences to his illustrious client and the country, and the deep anxiety with which an advocate must be overwhelmed in coming to the consideration of it. They had been charged with making use of invective, declamation, and

violence, for the purpose of producing an effect, not in, but out of doors; nay, he begged leave to state, that his learned friend had seemed to think that on some occasions they had borne personally too hard upon him; but he must disclaim all intention of bearing hard upon him, or of casting any imputation upon his honor and character. It was impossible for a man not to ask indulgence for any warmth into which he might have been betrayed; because the illustrious individual who was their client had been, from the first moment in which she had set her foot in this country, the victim of the most cruel oppression, and the most dreadful and irreparable wrong. That galling recollection had attended them through the whole of these proceedings; it must be their excuse for any undue warmth with which they might have expressed themselves; and having said that, he should proceed, without any further apology, to their case itself. But, whilst he disclaimed all personal imputation on his learned friend, he claimed the right of adverting, with the utmost freedom, on his conduct as an advocate, inasmuch as from the conduct of an advocate not only the impression of his mind might be collected, but also much of the nature of the instructions under which he acted, and of the spirit in which the prosecution had been commenced and conducted to its close. To have to conduct a case in such a spirit he conceived to be a misfortune for which no rewards, no honors, could afford an equivalent—a misfortune which had weighed down his learned friend throughout the whole of these proceedings—a misfortune to which he declared before God, that nothing within the scope of human ambition could have tempted him (Mr. Denman) to have submitted for a single moment—he meant the office of prosecuting this Bill of Pains and Penalties to divorce and degrade the wife of the King of England. In order to see the nature of the proof brought forward in

support of that Bill, their Lordships must look to the charges contained in the preamble; and, in order that they might fully understand them, he must refer them to the manner in which the indictment against his illustrious client was drawn up. It stated that her Majesty, "while at Milan, in Italy, had engaged in her service an individual, in a menial capacity; and that, while in that situation, a most unbecoming and degrading intimacy soon commenced between her Royal Highness and that individual; that he was not only advanced to a high situation in her Royal Highness's household, but that he was received by her Royal Highness with great and extraordinary marks of favor and distinction; and that she, unmindful of her exalted rank and station, and wholly regardless of her own honor and character, had conducted herself towards him, both in public and private, in the various places and countries which she visited, with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful, and adulterous intercourse with the said Bergami, by which conduct great scandal and dishonor had been brought upon his Majesty and this kingdom."—He was aware that their Lordships were now upon the second reading of the Bill, and that, in addressing them he had only one simple question to discuss—namely, whether the allegations in the Preamble were at all made out by the evidence adduced in support of them? It had been stated (and the whole Preamble went to charge it), nay, it had indeed been proved, that Bergami had entered in a menial capacity the service of her Royal Highness, and that he had been afterwards promoted; that several of his relations had been taken into her service; and that he had received several marks of favor, both himself and his family. But when the next clause in the Preamble came under consideration, that clause which stated that Bergami had received titles and orders of knighthood

through the influence of her Majesty, he thought that it was only fitting that some evidence should have been given that they were really obtained by that power and that influence. All that their Lordships had heard was, that at one period he was without titles, and that at another he possessed them. There had not been a tittle of evidence produced to show how he had obtained them, or that her Royal Highness had been instrumental in procuring them for him, except indeed such evidence were to be found in the circumstance of her Royal Highness having conferred upon him an order of Knighthood which she was said to have instituted, without any legal right or authority so to do: but before that clause of the Preamble which charged this occurrence could be considered as a crime against her Majesty, he thought that they ought to have heard something to prove that none but royal personages had a right to institute orders of knighthood. In the course of his historical inquiries he had never met any thing which led him to believe that this was the prescriptive right of royalty alone; on the contrary, he had found that it had been exercised by many individuals of inferior rank. In France several orders had been established by persons in a capacity infinitely more humble; and also in Italy by three merchants, brothers, he believed, though he did not at that moment recollect their names—all which went to prove that there were precedents for the establishment of orders of knighthood by private individuals. He treated this part of the accusation with seriousness, because it was so treated in the Preamble of the Bill, and because it was there charged against her Royal Highness as an unparalleled infringement of royal authority. When this was the first instance within six centuries of an European Princess visiting the Holy Sepulchre, there could surely be no crime if she, delighted with the adventure, and struck with the novelty

of all around her, did that which the Dukes of Orleans and of Bourbon had done before her—institute an order of knighthood to reward those who accompanied her. He could hardly suppose that this could be visited with any peculiar severity against her Royal Highness, though it was the charge against her that had been best proved. Bacon had said, that "Princesses had many times made to themselves desires, and sate their hearts on toys, sometimes upon building, sometimes upon erecting of an order." The illustrious lady, his client, was proved to have erected an additional wing to the Villa d'Este, which he understood to be in the best taste, and to do no discredit to her Royal Highness's judgment, however it might differ from some of those buildings which had been recently erected in this country. And as to the order which she had established, it was merely inserted to swell out the Preamble, and ought not, therefore, to attract any more of their Lordships' notice. When he came to the next clause in the Preamble, which charged her Majesty with indecent conduct and adulterous intercourse, and that he believed to include the real question on which their Lordships were then assembled to decide—namely, whether the adulterous intercourse had taken place at all? and then, whether it had so taken place as to bring scandal on the King, and dishonor on the people of England?

And here he could not help observing that her Majesty's Counsel approached to that issue under all the disadvantages under which it was possible that a defendant could labor, inasmuch as they were in utter darkness of all the charges which they were called upon to meet up to the very hour of the trial. The opening speech of the Attorney-General was the first specification of the charges which they had to refute—and that, too, not a specification of the witnesses who were to support them—for his learned friend had not mentioned the name of a single witness in the whole course of his

speech, but a mere specification of the charges against which they had to defend their illustrious and injured client. He should therefore refer to the speech of the Attorney-General, as to the case which he was called upon to answer: and the only way in which he should do it would be, by observing on the statements which it contained, and on the manner in which they had been supported by the witnesses he (the Attorney-General) had produced. The first case, or the first count, or the first overt act of high-treason which had been charged against her Majesty, was the alleged transaction at Naples; and certainly there never was a series of facts more likely to make a deep impression upon an audience than that which had been detailed to their Lordships by his learned friend. That detail not only made it clear that the adulterous intercourse charged in the Bill occurred on that very night, but gave a semblance of color and probability to all the circumstances which had followed after it. For what was the statement of the Attorney-General? He had said that the person whom he charged as the paramour of her Royal Highness, and who before slept at a distance from her Royal Highness, was on that night removed to a chamber near her—that the boy, Austin, who before slept near the person of her Royal Highness, was on that night removed by her desire—that on that night she had returned at an early hour from the opera—that her maid, who happened to be present, observed her to be greatly agitated—that her Royal Highness retired to her chamber, and hastily dismissed her attendant: and then came the remarkable addition to the maid's testimony, which was—according to his learned friend's statement—that on the following morning it was discovered her Royal Highness had not on the preceding night occupied her own bed; but that in the larger one there were found decisive marks of its having been slept upon by two persons. The Princess on that morning

was not visible at an early hour, as usual, that she remained locked up in her room until late in the day, and did not then receive the several persons of rank who called to pay their compliments upon her Royal Highness's arrival at Naples; and during that forenoon Bergami was missed from the breakfast table of the servants. What followed in his learned friend's speech came naturally enough after these proceedings—namely, that Bergami's conduct became altered, that he assumed an impudent and overbearing manner towards the other domestics, and conducted himself with intrusive and improper familiarities towards his Royal mistress. Such were the charges that had been opened by his learned friend, the Attorney-General, and which, doubtless, if proved by the witnesses for the Bill, naturally lead to only one conclusion. But he asked their Lordships, did that result follow in this case? or were not, on the contrary, all the facts which were capable of refutation clearly and unequivocally contradicted by her Majesty's evidence? From the evidence on the part of the Queen was it not clearly proved that, instead of the change of the apartment having taken place with her knowledge and authority, it was done of his own accord by her Majesty's housekeeper, in the bustle of a new arrival, to provide more accommodation, and altogether without her Majesty's being consulted on the subject? If, therefore, it should appear that this arrangement was made by Mons. Sicard, without the Princess's knowing any thing whatever of the matter, what became of his learned friend's statement of this part of the case in his opening speech? Then, as to the removal of W. Austin from sleeping in the same apartment with her Royal Highness, what became of the statement that this change was made for the first time on the Princess's arrival at Naples, when it was shown to have previously and repeatedly taken place before her Royal Highness's arrival at Naples, whenever the travelling accommoda-

tions admitted the change? and this was most properly done upon the remonstrance of her Royal Highness's Chamberlain, whc thought the age of William Austin rendered it necessary—he being then 13 or 14 years of age—that he should be provided with a chamber apart from that of the Princess. There was, so far, an end to the novelty of Austin's separate room on the Princess's arrival at Naples. If, then, it should also appear that the Princess, so far from returning early from the opera, remained there until the close of the performance—if, instead of secretly coming home, she returned, as Sir William Gell, who accompanied her, deposed, in the same state in which she went to the theatre—if, instead of Demont being in waiting to attend, she was called up for the purpose, and that Sir William Gell actually escorted the Princess to the door of her apartment—if, when all these things met their Lordships in proof on the minutes of the evidence, and that, from the same authority, it should further appear that no agitation was observed at the time alluded to in the Princess's manner, nothing unusual or particular seen in her conduct that night, no over-sleeping on the following morning, no refusal to see persons of rank who came in the forenoon to pay their respects, no missing of Bergami from the servants' breakfast table—then, after their Lordships saw all this in proof, had he not a right to say that the witness Demont's story stood so covered with contradictions upon all these facts, which were, from their nature, capable of being repelled by evidence, that on the only remaining parts of it, which, from her saying she was alone at the time with the Princess, were incapable of being met by direct contradictory evidence, she was utterly disentitled to any belief? The Princess's manner, she said, was agitated. Now, in the first place, it was not easy to depend upon one person's opinion of the manner of another; that was a very difficult sort of testimony to rely confidently upon under any circum-

stances; but when every part of Demont's testimony which came under the co-observation of another was utterly and effectually contradicted, what reliance in any degree could be placed upon the slightest part of her long and oft-contradicted examination? In referring to the mass of details which lay in the minutes before their Lordships, he feared he must necessarily become tedious; but he knew that they who had witnessed the whole proceedings, would see the necessity of his recalling their attention by reference to such parts of the evidence as bore upon the case of his illustrious client. If in any part of his reference he should fall into unintentional error, he should not consider it any interruption, but on the contrary, a serious favor, to be set right as he went on, either by his learned friends at the other side, or by any of their Lordships. His object, in now alluding to the evidence, was not to get rid of the effect of those things by showing how incredible, how impossible, was their occurrence in the manner stated by his learned friend; but shortly and simply to show, that not only was the opening case not proved by the evidence adduced to support it, but that many parts of it were expressly negatived out of the mouths of the Attorney-General's own witnesses to substantiate his own facts, as well as out of those of the witnesses brought forward in behalf of her Majesty. By referring to the evidence of Sicard, in pp. 566 and 593 of the minutes, they would find the two charges fully and unequivocally negatived, respecting the change of the apartments at Naples, and the bed in the cabinet. In Mr. Kepple Craven's evidence, in pp. 537 and 543, they would find the recommendation, at a previous period, that it was proper W. Austin should be placed in a separate sleeping-room, for that his age at that time rendered it unfit that he should sleep in the same room with the Princess; and from this part of the evidence it would also be seen that this proper recommendation had

been acted upon, and particularly in Germany. In the evidence of Sir William Gell and Mr. Craven, in pages 535 and 551, there was demonstrative proof that these gentlemen had remained with the Princess until the close of the opera at Naples, and for reasons that rendered their testimony conclusive. Then, again, came the total absence of all proof that Bergami was absent the following morning at breakfast time, and the flat and strong contradiction that any change in his behavior had been observable at that time, either towards his mistress or any of his fellow-servants—a change which would have been most natural indeed, if the facts, as opened by the Attorney-General, had been founded in fact. He adopted fully the opinion of his learned friend, that such would have been the demeanor of Bergami, had he been permitted by his mistress to take those liberties with her which laid the ground of this charge. But there was scarcely a page in the minutes of evidence before them, which did not go to negative any such conduct, and of course to destroy the inference that was drawn from it. From first to last, from the time at which he occupied an humble station in the household, up to that when he was honored with a higher and more confidential place, his whole conduct was distinctly proved to be that of an humble and respectful servant to a mistress who was kind and affable, it was true, but who, in her affability, never lost sight of her proper dignity. Mr. Craven's evidence on that point was quite conclusive. That witness, when asked whether Bergami's manners at the outset were those of a gentleman, very properly answered, "I do not know what can be meant by the manners of a gentleman in a courier; I know he conducted himself well as such, and afterwards, when I met him at her Royal Highness's table, his conduct was unexceptionable." With respect to what Demont deposed in p. 253, respecting the two beds—namely, that no person slept on the night she mentioned

in the Princess's small travelling bed, but that two must have slept in the large bed, from the tumbled state in which it appeared—it was a little curious that, if the Princess were guilty of the crime imputed to her, she should have left such proofs open for her detection, such marks calculated to excite observation, when they might so easily have been obviated. He should show that this part of the statement was altogether improbable, and utterly disentitled to any credit. It was also ludicrous to attach any value to her statement upon that point, after the manner in which she shook her evidence in her cross-examination by his learned friend Mr. Williams. Was it not also remarkable, that until the third or fourth day of her examination, she should have withheld those remarkable appearances on the counterpane, which, if true, were so important for the purposes of the prosecution, and must necessarily have been communicated to the Attorney-General in the previous depositions of Demont? How did it happen, that the Attorney-General in his questions to the witness, entirely overlooked such unquestionable proofs of the criminality which it was his duty to establish? He must have had these depositions of Demont's evidence before him. How did he then omit such a question? for surely, if she could speak to such a fact, she must have long before mentioned it to the agents for the prosecution. It was for his learned friend to have explained so singular and extraordinary a circumstance. Indeed the adage was never more verified than in the reflection which this witness's testimony excited:—

"Calumniando semper aliquid erat."

Though her testimony was disproved, still unfortunately the experience of human nature showed that sufficient traces of the evil inflicted would long remain—traces for which indeed his illustrious client could receive no adequate reparation, which no punishment of the parties would atone for, no time sufficiently efface.

What could atone for the statement of the Solicitor-General, who, after reciting the falsehoods (for such he was now entitled to call them) of Demont respecting the Princess's conduct on the night of her going to the theatre at Naples, had said that no man who heard him could doubt the fact, that on that night the adulterous intercourse commenced between her Royal Highness and Bergami, which was afterwards continued without intermission? When such strong statements were made, it became almost impossible for the mind to get rid of the impressions which they affixed upon it; the mind lingered with them often, notwithstanding their contradiction in evidence; and the melancholy reflection was, that their effect, so injurious at once to the feelings and peace of the object of them, survived the existence of the base surmise upon which they were founded. Never had there been, in the annals of any court of judicature, any opening statement of a case so miserably attempted to be sustained by evidence as this had been—never a case so satisfactorily disposed of by the conclusive evidence which was brought against it. Notwithstanding this complete destruction of the facts upon which the Bill was attempted to be founded, still he repeated that his illustrious client must suffer under the effect of such a prosecution, however satisfactory was her innocence established; and her feelings must be exposed to an indignant agitation which to her must be irreparable. The learned gent. then quoted, in illustration of his opinion, the following observation in the *Quarterly Review*: "To refute errors is no trivial task, for the labor is not very amusing. It requires more time and cost to repair an edifice than to damage it; and certainly more zeal to defend the calumniated than to raise the calumny. An attack, if it deserves notice, is necessarily lively, and our attention is raised by the air of novelty it carries with it; but a defence can only boast the honest intention of carrying us back

to the same place we had formerly occupied ; and nothing short of a miraculous demonstration will so completely eradicate a false or an aggravated charge, as to leave no traces of it behind in the minds of those who have long received the erroneous impressions." He should now come to what he considered the second count of the indictment—namely, that which embraced the conduct of her Royal Highness at the masked ball she gave to the then King of Naples. His learned friend, in opening that part of the case, had said, that, when her Majesty wanted to make an entire change of her dress during that ball, she retired to an inner room alone with Bergami, in whose presence, unassisted by any other person, she changed her first dress, and put on one which was highly indecent. Here again he had reason to complain of his learned friend, for there was nothing in the evidence to sanction that statement. Was there ever any thing so disproved as this ? The Turkish dress which the Princess wore had nothing whatever indecent in its arrangement, and it was, during one part of the evening, the dress of some of the Princess's suite. But it was said that Bergami, being offended at something that passed between him and the Princess, retired from the ball—that he was followed by the Princess, who ineffectually tried to prevail upon him to return to the company, and that her Royal Highness was herself obliged to leave him, having failed in her entreaties. Was there a single iota of evidence to sustain this statement ? Could the Princess have been for three-quarters of an hour absent on that night from her ball, without its being observed ? But, if even she had been so absent, was it likely she should have called her maid into the ante-room, only for the purpose of her listening to her vain attempts to recall Bergami to the ball-room ? It was said, that if Demont has sworn falsely, it was in the power of her Majesty's Counsel to call evidence to contradict her. So they had, where

she spoke of matters to which a third person was privy; but they had no power of contradicting her respective statements where she represented herself as being the only spectator, except out of the improbability of her own story, which, fortunately, where there was not better evidence, was sufficiently decisive. Where was the use of pursuing cross-examination to any great length with a witness whose story was her own invention? To press her further was only to carry her further in her career of deception; for vain indeed must it appear to hope to confuse her memory after a three years' rehearsal. He recollected an anecdote of a particular friend, who upon relating a circumstance, was informed that it was not true, and told, by the person who made the observation, that he knew it upon as good authority as the other did. But the other replied, that so he might, for that he had himself invented the circumstance, and told it to that person. Demont then was like his friend, the sole inventor; she was the historian; there was no going higher than the source; where was the use of ascending above the fountain? the more that the attempt was made to go back farther, the brighter became the ardor of this witness's invention. It did, however, so come to pass, that both Sir W. Gell, in page 562 of the minutes of evidence, and Mr. Craven, in page 536, as well as Sir William Gell, indeed, again in page 552, clearly showed the falsehood of Demont's story of the ball-scene. From this evidence her whole story was untenable; and in page 255 it would be seen that Bergami, so far from quitting the ball-room, had remained like the other servants serving up refreshments to the company during the night. The Turkish dress of the Princess too was disposed of with equal effect; for the trowsers, as they were called, consisted of a simple thread which marked a division in an ordinary petticoat, and had nothing in its shape bearing the smallest similitude to indecency. There was another

point in the statement for the prosecution which had been greatly dwelt upon, namely, the story that the Princess had been walking arm-in-arm in the garden with Bergami. This they had in page 7 from that famous witness Majocchi. Demont said she only observed it once. Demont, in this part of her testimony, resorted to the old and dangerous artifices of engrafting her falsehood upon a small portion of truth. The fact was simply this—there were some trees planting in the garden, and repairs going on, respecting which the Princess desired to give some instructions, and she went into the garden among the Italian workmen, accompanied by Bergami, whom the Princess took there to communicate to the workmen, which she could not do intelligibly in their language, the alterations she desired. Though Bergami attended her in the garden, it was false that he was arm-in-arm with the Princess. If their Lordships would please to refer to pp. 540, 557, and 562 of the testimony of Sir Wm. Gell and Mr. Craven, they would at once discover the falsehood of the charge built upon the circumstance to which he had just alluded, and they would also find that the Princess was, at that period, cautioned by one of these gentlemen against being seen even walking as she had walked with Bergami in the garden, and informed that her most innocent acts were liable to the greatest misinterpretation, as persons were then spying into her conduct with the worst views. They had also heard from the same witnesses who contradicted the story of walking arm-in-arm, that this garden was surrounded by the neighboring terraces, and that at the time spoken of, Bergami, so far from being walking arm-in-arm with the Princess, was in attendance upon her, and walking after her as a servant upon a mistress. His learned friends in conducting this prosecution had repeatedly said that they had no interests to serve except to promote the ends of public justice. His learned friend, the Solicitor-General,

had said, that his duty was not to impose or to influence by any distorted statement; all that was required of him was, that he should sum up the evidence with truth and accuracy, and then point out how it applied to the charges upon which the bill was founded. If it were not expected of him to incur any charge of this mis-statement, still less, he hoped, was it expected of him to use the slightest expression derogatory from the station and dignity of her Majesty, the Queen. No such expressions should escape his lips. Indeed, no effort had been spared by Counsel which ingenuity, dexterity, or management, could suggest to effect their purpose. He did not complain of the efforts of his learned friends in support of the Bill. It was of course their duty to act upon the evidence submitted to them: that evidence came to them in the shape of instructions, and they were bound to manage them in the most dexterous way they could. His learned friend the Attorney-General had indeed taken manly ground, and it was pleasant to deal with such an adversary. The Solicitor-General, however, put the case upon a different footing. The one promised proof of what he meant to support in an authoritative form, but the other addressed their Lordships in his summing up in the tone of a judge instructing a jury upon the facts on which they were to give in their verdict. The Solicitor-General said, in his summing up, that he hoped he might be allowed in conclusion to say —and he said it from the bottom of his heart, and in the utmost sincerity—he sincerely and devoutly wished, not that the evidence should be confounded and perplexed, but his wish was that it should be the result of this proceeding, that her Royal Highness should establish to the satisfaction of their Lordships, and every individual in the country, her full and unsullied innocence. These declarations of his learned friends, the eager advocate on the one side and the impartial judge on the other, showed a division of labor between them. It was as if

one had taken the events of Monday, Wednesday, and Friday, and the other those of Tuesday, Thursday, and Saturday, under his special cognizance. The conclusion of his learned friend the Solicitor-General could not fail to have struck their Lordships as being very remarkable: he had prefaced it by demonstrating, as he conceived, the impossibility of rebutting the facts set forth in the prosecution, and he had concluded with a sincere and devout prayer that her Majesty might still be able to prove her entire innocence. This must be taken as a happy omen, for it was the first prayer that he believed had emanated for her Majesty from any officer of the King's government, and he hoped it might be considered as a happy omen, which preceded the restoration of her Majesty's name to the office of the church, from which it had been so improperly and illegally removed. The learned gentleman then said that he would recur to the minutes of evidence to impress still more strongly upon their Lordships the glaring inconsistencies and contradictions which were to be found on the minutes of evidence in support of the Bill. He now begged to direct the attention of their Lordships to what he would call the third count of the charge. Demont stated that she had seen Bergami in the passage leading to the Princess's room. This was insisted upon as a most material part of the case; their Lordships would now see how the case stood, as it appeared on the minutes. In page 251 were the following questions:—

"Do you remember ever seeing Bergami at night in the passage of which you have made mention?—I do.

"Where was her Royal Highness at that time?—In her bed-room.

"Was she dressed or undressed, or in what state?—She was undressed.

"Where were you standing?—I was near to the door of her Royal Highness.

"Where did you see Bergami?—I saw Bergami come out of his room, and some into the passage.

"In what direction? towards the Princess's room, or how?—He was going towards the bed-room of her Royal Highness.

What was the state of Bergami's dress at the time you saw him going towards the bed-room of her Royal Highness?—He was not dressed.

"When you say he was not dressed, what do you mean? what had he on?—He was not dressed at all.

"Do you remember what he had on his feet?—Slippers.

"Do you remember whether he had any stockings on?—I saw no stockings.

"Had he any thing on more than his shirt?—Nothing else.

"You have said that the Princess at that time was undressed; had she got into bed or not?—She was not in bed.

"When you saw Bergami coming along the passage in the direction of her Royal Highness's room in the manner you have described, what did you do?—I escaped, by the little door which was near me, out of the apartment of the Princess."

This, continued *Mr. Denman*, was the account given by Demont; but, in her cross-examination, his learned friend Mr. Williams drew from her that she went towards Bergami instead of retreating from him. She also said she escaped; she never went to see where Bergami was going; but she, to use her own words, "escaped." Was it possible that from this circumstance their lordships could believe that adultery was committed on that occasion? Supposing the whole of this account to be true, what was there in it to show any adulterous intercourse between Bergami and the Princess more than between him and any other woman? He maintained that the facts, taken in the most extended view, did not bear out such a conclusion; and, indeed, something of this kind must have been running in the mind of Demont herself when she said she escaped from Bergami. Would it, he asked their Lordships, be re-

quired of his illustrious client, at the end of six years, to give an exact account of the particular acts and situations, not only of herself, but of every one of her suite for all that time? What was there in the fact of Bergami having been seen out of his room? If he had been seen thus circumstanced in the room of her Royal Highness, there would be no need of going further, but he was only seen out of his own room; and he demanded of their Lordships whether, looking at this as it was stated, it was a fact of such importance that they should consent to a measure which would pluck her Majesty from her throne because she could not account for Bergami's being out of his chamber at a particular hour. The proposition was monstrous. But it seemed that his learned friends on the other side did not themselves place much reliance on this part of the story as first told by Demont, and accordingly they resorted to a new mode of mending their case: and here he could not but complain of the disingenuous means to which they (the Counsel for the Bill) had recourse in this part of the case—means which he was satisfied would never have been allowed in any of the courts below. It was the invariable practice in the courts below that no question should be put to a witness in a re-examination, which did not arise out of the cross-examination; it was usual to give the Counsel cross-examining notice of it, or to ask it through the court; but in the present case no such thing was done: and in the re-examination his learned friend, the Solicitor-General, took the witness back to Naples, and referring to the account which she had given of the scene in the passage, had asked her whether she had observed any thing done to the door (of the passage) after she went out of it? To which she, whose memory of course was much improved by the interval of a day or two, answered, that the door was shut, and, not only shut, but that it was shut on the inside, and that she heard the key turned in it. The object of this was to show that Bergami, by appearing in

the passage, could not have intended to seek Demont, but must have intended to visit the room of her Royal Highness. Now he contended that there was no Judge in Westminster-hall who would have suffered a witness, two days after her examination in chief, and after she had seen the effect of her former evidence, thus to be examined as to matter entirely new, and which in no manner arose out of the cross-examination—matter, too, to which she might have been prompted as an important adjunct to her former statement. If such a case were to come before the Lord Chief-Justice, or any other Judge, he would instantly have prevented the party from putting the question. It was, however, allowed to be put here; and what was before, at the most, only a case of mere suspicion, was thus attempted to be turned into something of positive criminality. He felt it his duty to advert to this instance as extremely disingenuous on the part of his learned friends. He would for the present leave it, and go to another part of the case, as it was his object to pursue facts. He now called their Lordships' attention to another part of the evidence, which was relied upon as proof of adulterous intercourse. He alluded to that part where her Royal Highness was described to have visited Bergami during his illness; for even illness, it seemed, was not to prevent the continuance of this degrading connexion. Her Royal Highness was said to have visited Bergami's room twice on this occasion, and to have remained each time just long enough to have yielded herself to his embraces, as it was meant to be inferred. But was not this part of the case fully answered by the evidence of Dr. Holland? He (Dr. Holland) positively swore that, to his knowledge, her Royal Highness never entered Bergami's room during his illness. Was this a satisfactory answer to their lordships? The next statement of that wretched discarded servant, Majocchi, who swore to having seen her Royal Highness passing through his

room twice in the night, on her way to Bergami's apartment would their Lordships call upon him to reply to this? Good God! if such an account were to be credited, what safety was there for the life or character of the most innocent individual? Was it credible that if her Royal Highness sought Bergami's room for the purpose alleged, she would have chosen to pass through the room where a servant slept, when she might have gone through another passage? Would it be credited that she had gone through the room of this servant, who was but newly hired, and in whom no confidence could be placed? Was it, he asked, to be believed that her Royal Highness would have gone through a room where a servant slept, or pretended to sleep, where there was a fire and a light, and where she ran all the chance of detection, and this on two occasions in the night—and all this was done too by a person who was said to be endeavoring to screen her guilty connexion with this individual? So that, for the very purpose of secrecy, she went where she must have been inevitably detected. Would, he repeated, their Lordships call upon him to give any reply to such a statement? The thing carried its own falsehood along with it. There was, then, in support of it, the account of kissing. This was mentioned as having been heard in the opening speech of the Attorney-General; it was said that a witness would prove the having heard kissing after her Royal Highness had passed through the room. The throwing in a few kisses was, no doubt, likely to increase the proof; but the witness only heard whispering. He did not hear what he might have heard, if it had taken place. But why, he asked, had not Dr. Holland been called in support of the statement of Majocchi? Dr. Holland was in attendance on Bergami, and he might have supported his (Majocchi's) testimony, as to the visit of the Queen to Bergami, if it had so taken place. Why, then, had not Dr. Holland been called on the

other side? After the undertaking which was first given by his Majesty's ministers, and subsequently by the law-agents in conducting the prosecution, that all the witnesses should be called who could state any circumstance connected with the case—why, then, after those repeated undertakings had not Dr. Holland been called? Surely he was as respectable a witness as Majocchi. Why did they not call for the testimony of those respectable ladies who had attended her Royal Highness—some of those who had been placed in attendance on her by her Royal Husband, and who must have had the best opportunities of observing her conduct, who could have described what that conduct was? The Counsel for her Majesty could have no objection to their stating all they knew respecting her Royal Highness's conduct; there would be no confidence violated. These were not called, but their Lordships were told that there was sufficient ground for passing this Bill upon what was called a *prima facie* case, supported by such detestable witnesses as he had described.

Their Lordships had heard of a secret staircase, and the inference which was attempted to be drawn from it. Now, he would suppose that any one of their Lordships were called upon to account for the arrangements of their houses and family at the distance of six years; suppose they were accused of some crime connected with such arrangements, and without notice of the places or particulars of such accusation, could they point out accurately what those arrangements were after the lapse of such time? Ought any one, under such circumstances, to be convicted because they were unable to give such particulars? The greater the innocence of the party, the greater would be the difficulty of proving it. Guilt was always cautious and wary; it was scrupulous in contriving such means as might continue to screen itself from detection. Innocence, on the contrary, confident in itself, was improvident: it neg-

lected, very naturally, to look for protection to such circumstances where no danger could be apprehended. It was not, therefore, to be expected that an innocent person could be prepared to enter into a detail of every circumstance connected with his conduct; and least of all could it be fairly required in such a case as the present.

It was sworn by Majocchi that Bergami dined at the table with her Royal Highness at Genoa, and every day after. Now this circumstance was most positively contradicted by not less than three most respectable witnesses. It was contradicted by Dr. Holland, in page 619; by Lieut. Howman, in page 702; and by Lord Glenbervic, in page 511. Here were three positive contradictions by witnesses whom it was impossible to suspect. What did this prove? Did it not clearly show to their Lordships that this wretched man (Majocchi) was determined to do something worthy of his hire—something which would be a sort of return for the payment he received? He therefore swore to what he knew must have been false; and was this palpable perjury to be answered; was this man's credit to be bolstered up by such remarks as had been made by the Solicitor-General on what his learned friend had said respecting the frequent 'non mi ricordos.' Neither he nor his learned friend objected to Majocchi's want of recollection; they did not blame him for his forgetfulness alone (for any man's memory might be frail) but Majocchi's memory was remarkably acute—his recollection of times and places was most astonishing. He spoke to the most minute circumstances of time and place, for a series of years, but this recollection was all on one side. On the other he could recollect nothing—no, not even the the most remarkable facts; all were lost to his memory when he came to be cross-examined. This was the reason why his learned friend (Mr. Brougham) had dealt so much and so justly upon his 'non mi ricordos.' It

was here that Majocchi gave the most decided negative to the truth of his own story, for he (Mr. Denman) believed that in the whole course of his life he had never met in any court a witness whose evidence was so completely demolished by himself as was that of this man. This was the contradiction which their Lordships would weigh. In every case where he spoke of what took place in the presence of a third party, he was contradicted, but who could contradict him, who could disprove that which he swore he alone saw? How was it possible to say that he was not, as he said, half asleep when he saw her Royal Highness enter his room? What did their Lordships think of the accuracy of this man's memory when asked as to the having received money from Lord Stewart; "I remember to have received no money when I arrived at Milan; I remember I did not; 'non so,' I do not know, 'piu no,' more no than yes—'non mi ricordo,' I do not remember." Was this answer a proof of a frail memory? or did it not show that the witness who had so sworn was anxious to do something to earn the money he had received by giving his wretched deposition in support of this case? He (Mr. Denman) would not now go into this part further. He would afterwards have to call their Lordships' attention to what he should show was a conspiracy. It was not necessary for him to go into detail with every circumstance respecting this man's testimony; but there was one to which he wished to call their Lordships' attention. They had heard the seeming accuracy with which he had described the bed-rooms in several places through which her Royal Highness had passed; but at Civita Vecchia, Porto Ferrajo, Rome, and several other places, he could give no account whatever of the disposition of the rooms. If this alleged adulterous intercourse were still followed up, it must have led to similar dispositions of the apartments, as it was manifest that it could not have been carried on in open day: but of such dis-

position Majocchi could not recollect one word. This was the frailty of memory, the wilful and corrupt forgetfulness of which his learned friends had complained. There was one part of the case which had nearly escaped his recollection; their Lordships would bear in mind that in the opening statement of the Attorney-General great stress was laid on the scene which was said to have taken place at the theatre of San Carlos. Her Royal Highness was described to have been so indecently attired as to excite the indignation of some of the company present. What, however, did this turn out to be? What was Demont's account of it? She stated, not that the dress was grossly indecent, but that her Royal Highness was covered up in an ugly dress, and being surrounded by a number of disagreeable masks, they had left the theatre. But what said his learned friend the Solicitor-General to this? He had asked, "Could Demont have invented her account?" He (Mr. Denman) said she did invent, and that her story was nothing but invention. They had proved her falsehood where it was possible she could be contradicted. They had proved it in her account of getting leave of absence from Como. He would now come to another point of this proceeding, which would show to their Lordships that her Royal Highness had been the victim of perjury and conspiracy, by those Italian witnesses, who had come over here to dethrone a Queen on account of her moral conduct. The word conspiracy seemed to excite a feeling of horror among their Lordships, as if such a thing had never before been heard of—he would not say in Italy—but even in England, and by Englishmen. Since their Lordships had commenced their sittings in this extraordinary prosecution, within the last few weeks, two cases of conspiracy were tried in Guildhall, London. One was that of Miss Glenn, a young lady who had sworn to an attempt on the part of a young man, aided by several of his relations, forcibly to convey her away

for the purpose of forcibly marrying her. This young woman underwent a long and minute examination; and, when the judge was about to sum up the evidence, the foreman of the jury, who, he believed, was Mr. Bankes, the member of Parliament, declared to the court that there was no necessity, because the jury were unanimously of opinion that the case was fully established, and they accordingly returned a verdict by which six or seven persons were condemned. A new trial was afterwards moved for, and affidavits having been heard on both sides, that application was refused. At last the parties preferred a bill of indictment against Miss Glenn and her servant for wilful and corrupt perjury. This case was tried a few days ago, and Miss Glenn and her servant were convicted on the clearest possible evidence. Justice was now, alas! about to be done to the injured parties; but it came too late to save the life of one of them, the sister of the young man, who had been tried and convicted with her, and who had ultimately sunk under her misfortunes. It came too late to retrieve the injury done to their affairs, but he trusted it did not come too late to operate on their Lordships; to show them that a conspiracy by persons respectable in life, much less by Italian witnesses, was not impossible; and that evidence might be so got up, as for a time to destroy the character of innocent individuals. There was another case to which he might call the attention of their Lordships, the case of a prosecution in which he had himself been engaged, and which was tried in the court of King's Bench against certain individuals, for a conspiracy to set up a sham commission of bankruptcy. It was the case of "the King *v.* Cohen," and abundant evidence was there produced that ten who were convicted, and others who escaped, were in the daily habit of false-swearing, and of receiving money as the consideration for false testimony. This happened in England, where the same persons were afterwards liable to

detection, and might be brought to legal punishment. It was on that occasion demonstrated that witnesses might be hired as readily as lodgings might be hired at the west end of the town. But it was impossible that their Lordships should have forgotten the case of Elizabeth Canning, and the crowd of witnesses who then testified solemnly to what was grossly false. The same remark was applicable to the case of Titus Oates, whom he was content to consider as the hero of a poem only, but with reference to whom he might be permitted to allude to a period when the then Duke of York was in a state of doubt whether he would or would not cast off the wife, the daughter of Lord Clarendon, with whom he had clandestinely contracted marriage. In the *Memoires of the Count de Grammont*, it was stated that marriage, or at least cohabitation, had taken place between the parties. What did all this imply but that agents might always be found to gratify the lowest passions which unfortunate princes, or individuals in high places, were disposed to indulge? It was undeniable that the facts alleged against Queen Ann Boleyn were stated as distinctly—indeed much more distinctly—than were the circumstances in the testimony produced in support of this Bill. It was altogether evidence much stronger and more unexceptionable. But, without dwelling on the events of a period so remote as the reign of Henry VIII., however similar some of those events might be to the transactions and business of the present day, he would now advert to a period within the recollection of them all—to what passed, in fact, in the year 1806. The result of an inquiry into charges affecting her Majesty's character at that time was to cover her accusers with infamy and shame. Their Lordships, looking back to that investigation, must of necessity contemplate the process now going on with the utmost jealousy and care. When it had pleased his present Majesty's government to separate

the mother from the daughter, was it not upon record that this decision was founded on perjury and subornation? How otherwise were they to understand the minute of council drawn up, or at least dated, in February, 1813, and in which the letter of her Royal Highness, charging the existence of "suborned traducers," was alluded to? It was felt by her Royal Highness's advisers to be their bounden duty to declare that there had been suborned traducers, but that an illustrious person stood acquitted of the subornation. Without charging any conspiracy now, he would venture to say, that if any place or country was to be selected or preferred as the scene of a conspiracy, and that the selection and preference were judiciously made, the scene would certainly be in Italy. It was there that the means presented themselves—it was there that cunning and artifice thrived—there that a price was openly set upon an oath—there that every infamous purpose might by bribery be carried into effect. They were now inquiring into the transactions of six years, and guided only by the light of Italian evidence. Could they, as men of the world, as men acquainted with history, imagine for one moment that the information given to them by witnesses for the prosecution was not given with the countenance of immediate favor, and the hope of further reward? He would refer them at present to the evidence as to what passed at Savona, and in the course of which it was sworn that two persons had certainly slept in one bed there. The only ground upon which this fact was stated was a former deposition of Demont, and which was left utterly unsupported by her testimony at their Lordships' bar.

So with regard to the allegations of an illicit and adulterous intercourse taking place at Varies and at Lugano. No witness from Lugano had been called; he meant not to cast blame on his learned friends on the other side, but he did think they ought to have been prepared

with that branch of the evidence before they made the charges which, in pursuance of their instructions, they had felt themselves obliged to make. The riot, as it had been called, which took place at Dover, happened in June last; and how was it that his learned friends, during the long interval between June and the 7th of September, had neglected to reassure the spirits of their witnesses, and discover some opportunity of bringing them over in safety. Material evidence might sometimes be lost by accident, but was it credible that accidents had operated here? His learned friends on the other side, with all their ability, had failed in one of their chief attempts—that of proving guilty conduct on the part of her Majesty, the Queen, at Naples. It was with a great degree of confidence that he now proceeded to examine more minutely the character and nature of the evidence on both sides. He would, however, previously remind their Lordships of a passage in Roger North's life of his brother, Sir Dudley North, a merchant in Turkey, and in which it is observed, on the ground of the Turkish merchant's experience, that, "before the Cadi false evidence was a much surer ground to go upon than true, for a witness of plain honesty could not stand under the captious questions which were sometimes put to him." It was remarkable that in all the humorous scenes described by our great dramatic poet, whenever he had occasion to paint the character of a man anxious to blacken the reputation of an innocent wife, he chose his scene in Italy. In one of his productions it was represented that a thousand ducats were given at Messina for the evidence of a person who was to swear away the honor of a woman. Their Lordships might do well to refer to the character, as there developed. The passage to which he now alluded was as follows:—"Which be the malefactors?"—"Marry that am I and my partner."—"Now write you down that he says he has received a thousand ducats for accusing the Lady Hero

wrongfully."—"Marry, Sir, they have committed false report; moreover they have spoken untruths; secondarily, they are slanderers; sixthly and lastly they have belied a lady; thirdly they have verified unjust things, and, to conclude, they are lying knaves." —*(A laugh.)* He hoped this last quotation would not be considered altogether inapplicable, taken as it was from the last act of a celebrated comedy called *Much Ado about Nothing.—(A laugh.)* He now came, however, to a closer examination of the evidence—evidence of a kind which had never before been so amply remunerated. It appeared upon their minutes that Gargiulo's vessel had been hired by her Majesty, with all its crew, at the rate of 750 dollars per month; this, in fact, was the sum to be paid for the use, and the exclusive use, of Gargiulo's ship. But the captain, being in the employment of a royal person, looked forward to something else, and limited his expectations to a sum of 6,000 dollars. Disappointed in those expectations—and through the means of Bergami—coming over to this country to enforce his claims, was it not probable that he should consider the attainment of his object as likely to be facilitated by the evidence which he gave on this occasion? It was idle to suppose that any witness for a prosecution of this nature would come forward with a mind perfectly unbiassed. On that account alone it became necessary to require evidence the most pure and most unsuspicious that could be obtained. An improper intercourse was alleged to have taken place between her Majesty and Bergami, or rather it was alleged that they were observed sitting together on a sofa, and under an awning, with a view to that improper intercourse. If this representation were true, the parties could not have adopted a surer mode of proclaiming to the world what their intention and purpose were. Kisses and caresses were spoken of, and really such evidence deserved the pay which had been received for

it. But, how was it that only the captain and his mate, the uncle and the nephew, should appear to corroborate a story of this kind? Was it not probable that the uncle had said to his relative—"There never was a happier prospect for the family; here is already an allowance offered of 800 dollars a month for yourself; and, as for me, I am to receive a thousand"? He put it then to their Lordships, whether evidence given under such circumstances ought not to be admitted with suspicion and distrust? "Come to England with me," quoth the uncle; "there is a process going on which will continue at least for a year, and in which you and I may be material witnesses." It was very singular that they, and they alone of all the individuals belonging to the polacre, should be called to speak to the indecent acts mentioned in their evidence. The crew was composed of 22 persons, and not one of them appeared to confirm the story told by the captain and his mate. He would contend before their Lordships that the absence of all that crew was in itself proof of criminality on the part of the prosecution; and was in itself an acquittal of her Majesty. It was a most shameful thing to have drawn any gross inferences to the prejudice of her Majesty without previously examining Lieutenant Flynn, who was on board the polacre at the same time. When it was represented too that English ladies and gentlemen were driven from the society of her Royal Highness in Italy by prevalent rumors and reports, it was obviously incumbent on the other side to bring those English persons forward to render their testimony as to the foundation and authority for such rumors. How could they otherwise trace such reports to their origin? There was no judge in this country who would allow the statement of rumors to be put in evidence against any man standing upon his deliverance before a jury. His first observation would be, that such rumors might be the offspring

of malice, and of feelings in which the prosecution itself had originated. Some might listen to them with a servile readiness of belief; but he would repeat before their Lordships, that the evidence of Lieutenant Flynn ought to have been taken before this prosecution was instituted. He had been taken on board the polacre, not because her Royal Highness wished to avoid English society, but because she wished that an Englishman should be about her on a voyage with a Sicilian crew. She had therefore applied to Captain Briggs for an English officer to attend her. Her voyage from Syracuse to Jaffa was then undertaken, and on the journey afterwards to Ephesus an impropriety was alleged to have taken place. Majocchi was the only witness to this part of the case; he described her Royal Highness and Bergami on the vestibule of an ancient ruin, but neither Demont nor Girillo gave any confirmation to his statement.

Mr. Denman stated, that with their Lordships' permission, he would retire for a short time.

Mr. Denman resumed—It was a prominent part of the case of his learned friends, that the Princess, in her arduous and perilous journey to the east, reclined, completely dressed, under the same tent with Bergami, when after the fatigue of travelling all night, she laid herself down to rest in the day time. Majocchi told this story; but he had omitted the essential fact, which other witnesses had spoken to—that the Countess Oldi was also under this tent, and that the child Victorine was almost constantly there. Majocchi had likewise, in his direct examination, passed over another fact, afterwards disclosed in his cross-examination—the important fact, that he, Majocchi, and another servant, were in the habit of taking rest in a second tent, contiguous to that which her Royal Highness occupied, and which commanded a view of all that passed there. It appeared too by Lieutenant Hownam, that her

Royal Highness was so much fatigued that she often wanted support to prevent her falling from the animal she rode, and that consequently she retired to rest immediately on alighting. Was it possible, under these circumstances, that he should be called on to argue that this was not a case of adultery? He now came to the polacre; and he should maintain, after the proofs he had recited, that her Majesty entered that polacre without a taint of suspicion. At first, her Royal Highness slept in her cabin; but in her voyage home, the animals in the vessel became troublesome, and on this account, as well as on account of the heat below, her Royal Highness thought proper to take her station at night on the deck. Now, he would ask, if her Majesty had been the blind victim of a guilty passion for this man, was this the course she would have pursued? Was it to be believed that a circumstance of the nature—a trifling inconvenience—would induce her to stop the tide of irresistible passion, to withdraw from his secret and secure embraces, and to transfer herself to a tent on deck, subject to the observation of the captain, in the neighborhood of the steersman, and open to the remarks of every sailor in the vessel? A tent! O, no! any military officer who heard him would correct him. This was not a close tent—it was the awning of the deck, hanging loosely around, covering a large space—the bed of the Queen and that of Bergami, or rather the bed and sofa on which they rested, were placed at a distance from each other, and the hatchway was always open. The parties were sleeping, dressed, as in a camp on land. The period during which her Majesty was in this situation was from the 20th July to the 17th of August. During that time her Royal Highness was proved to have been extremely fatigued, and it was absolutely necessary, as Lieutenant Hownam had stated, that her Royal Highness should be attended by some person. By what person, then,

could she be more properly attended than by the chamberlain whom she had appointed to provide every protection her situation required? There was but one moment when it appeared that Bergami was positively under the tent. In the constant use of the tent all was open and avowed; the light was given out, which was a most important circumstance, and distinctly proved; nothing was done that showed concealment or disguise of the fact; and all that appeared was, that this fatigued, unprotected lady, but the boldest of the party, found it absolutely necessary that some male person should attend near her. Two and twenty sailors were on board, and passing and repassing at all hours; two steersmen regularly relieving one another; there was a constant liability to be interrupted and observed by persons below, and on every side. The learned Counsel then adverted to the testimony of Lieutenant Flynn; and argued, that though that brave man—unused to courts of law, and subjected to a cross-examination which stupefied him, was contradictory on such trifling and irrelevant matters as his log-book (about which he could not have the slightest interest in prevaricating), his evidence on material points was most candid and consistent. Lieutenants Flynn and Hownam completely contradicted the tales of Gargiulo and his mate. He should now proceed to the Villa d'Este, where that valuable member of society, M. Sacchi, was first taken into the service of the Princess.

Two discarded servants, Sacchi and Rastelli, were had to establish the most disgraceful facts that ever polluted the lips of man, which he (Mr. Denman) should have thought no husband of the slightest feeling would have permitted to have been given in evidence against his wife, even if she had deserted his fond and affectionate embraces, much less if he had driven her into guilt by thrusting her from his dwelling; recollecting that the more depraved he showed his wife to be, the

more he established his own cruelty and profligacy; and the more imputations he cast upon her, the more he was to be despised for having deserted and abandoned her. He had heard examples supposed to be similar to the present quoted from English history, but he knew of no example in any history of a Christian King who had thought himself at liberty to divorce his wife for any misconduct, when his own misconduct in the first instance was the occasion of her fall. He had, however, found in some degree a parallel in the history of imperial Rome, and it was the only case in the annals of any nation which appeared to bear a close resemblance to the present proceeding. Scarcely had Octavia become the wife of Nero, when, almost on the day of marriage, she became also the object of his disgust and aversion. She was repudiated and dismissed on a false and frivolous pretext. A mistress was received into her place, and before long she was even banished from the dwelling of her husband. A conspiracy was set on foot to impute to her a licentious amour with a slave, and it was stated by the great historian of corrupted Rome, that on that occasion some of her servants were induced, not by bribes but by tortures, to depose to facts injurious to her reputation; but the grèater number persisted in faithfully maintaining her innocence. It seemed that though the people were convinced of her purity, the prosecutor persevered in asserting her guilt, and finally banished her from Rome. Her return was like a flood. The generous people received her with those feelings which ought to have existed in the heart of her husband. But a second conspiracy was afterwards attempted, and in the course of that inquiry she was convicted and condemned. She was banished to an island in the Mediterranean, where the only act of mercy shown to her was putting an end to her sufferings by poison or the dagger. In the words of Tacitus, "Non alia exsul visentium oculos majore misericordia affecit. Meminerant adhuc quidam

Agrippinæ a Tiberio; recentior Juliæ memoria observabatur, Claudio pulsæ. Sed illis robur ætatis assuerat: læta aliqua viderant, et præsentem sævitiam melioris olim fortunæ recordatione allevabant. Huic primum nuptiarum dies loco funeris fuit, deductæ in domum, in qua nihil nisi luctuosum haberet."

The death of her father and her brother had deprived her of her natural protectors, who might have stood between her and misery, "tum ancilla domina validior: et Poppœa non nisi in perniciem uxoris nupta: postremo crimen omni exitio gravius." Mr. Denman proceeded to make some powerful remarks on the distrust with which the evidence of discarded servants should always be viewed, and the necessity of wiping out altogether the evidence of tainted persons of that class. Discarded servants had it in their power at all times to depose to facts on which they could not be contradicted, but by the general purity of the character of the accused, and by the malice of the accuser. There were moments, however, when corruption gave way to repentance; thus Louisa Demont disqualified herself as a witness, by pronouncing in favor of her mistress one of the most cordial and excellent panegyrics that ever proceeded from a servant. With that unequivocal testimony staring them in the face, it was impossible not only to believe a word that she had sworn in contradiction of herself, but a word that any of the other witnesses had deposed against the Queen. The learned Counsel went on to show the general reason why the Queen had not called such and such witnesses. It was to be recollected, that her Majesty, after so many instances of faithlessness, could never put much confidence in any one. On this account it became necessary for her Counsel to take the defence into their own hands, and to determine where no case was proved, not to meet imaginary evidence, but to content themselves with clearing her Majesty from all that had a shadow of testimony to support it.

They had held it unwise to expose her innocence to the possible treachery of the sister of Demont, or to submit that sister to the perils of a cross-examination. Some little forgetfulness—some trifling slip—some unconscious error on a point that had nothing to do with the real merits of the defence, might give the other side an important advantage over a weak and timorous female. Their experience of the errors of Lieutenant Flynn, and the prodigious triumph of the other side on that occasion, was a sufficient reason for this caution.

The learned Counsel was interrupted, and the House adjourned.

OCTOBER 25.

Mr. Denman resumed his speech with some remarks on the elevation of Bergami. It appeared, he observed, that Bergami was engaged by the Princess of Wales, in consequence of an extraordinary recommendation for honor and fidelity from the Marquis Giziliezhiri, Grand Chamberlain to the Emperor of Austria, who had been seen by Sir W. Gell to treat him on a footing of equality. Bergami's family were reduced by misfortune, but still he had the manners and appearance of a gentleman. The courier of a Royal person is not considered as a menial servant; nor is the dress he wears a livery. Now, when Bergami had honestly discharged the service in which he had been employed, could any thing be more natural than that he should have been promoted to the honorable office of page, and then to the still more confidential one of chamberlain? Bergami had qualifications which particularly fitted him for the office. Among others, he had been in the habit of keeping accounts—of itself a strong reason, especially as Monsieur Sicard was at that time compelled to come to England. Sicard himself, with all his good qualities, was disqualified by previous habits from becoming Chamberlain; and

though he (Mr. Denman) did not deny that it would have been more advisable for her Royal Highness to have had some Englishman of rank in that capacity,—yet, when it was seen how impossible that was, for the best reasons, he contended that the public elevation and patronage of Bergami, so far from being a presumption of guilt, afforded the strongest evidence of innocence. Had the imputed criminal connection really subsisted, the Princess would have kept Bergami in obscurity, and not have brought him forward on all occasions. Much had been said respecting Bergami's titles; but if her Majesty thought proper to constitute him chief officer of her household, it was necessary that he should have some titles, the absence of which, on the continent, was thought to derogate from a man's respectability. Titles were very liberally lavished abroad. Most of his learned friends, as well as himself, had been addressed in letters from abroad by the title of my lord; and his friend, Mr. Vizard, her Majesty's Solicitor, had been addressed under the title of "Count" by a volunteer witness, who added a request, that apartments might be provided for him by Count Vizard, at a hotel as near as possible to his Lordship's palace. *(Laughter.)* The learned Counsel here begged to add something to his remarks of yesterday upon the occurrences on board the polacre. There was nothing whatever, except the general belief of Lieutenant Hownam, to warrant the assumption that Bergami slept every night under the awning. Lieutenant Flynn thought he never did; and though Bergami was once seen sitting on the bed under the awning in the day-time, he was never seen there at night. Majocchi had a story of a bath in the cabin; which was contradicted by Demont, and indeed must be false, as it was proved in defence that the bath could not be got into that room. Demont had said it was in the dining-room; and what was the amount of her statement? Why, that the Princess, a lady of 48 years

of age, had been attended on this occasion by her Chamberlain, whose duty it was to attend her, and who, after seeing to the necessary preparations before the bath was taken (as was the usual office of a male attendant at Paris and on the Continent generally) had sent a maid to attend on her. And from this circumstance adultery was to be inferred! The case at Scharnitz rested on Demont alone; and was most triumphantly answered. The circumstances were these:—the Queen, on her journey to Rastadt, while the snow was on the ground, was compelled to stop at a miserable inn, where all the suite were obliged to pass the night, dressed, on straw. Demont said, that herself and the Princess "went to bed," and wished to insinuate that they were undressed, although she forgot particulars. She also stated, that between two and three o'clock in the morning Bergami and Vassali returned from Inspruck with passports;—that Bergami came at once into her Royal Highness's room, and that the Princess immediately desired her (Demont) to take up her bed and leave the room. This story was shown to be utterly false by Count Vassali, in mentioning whom, he (Mr. Denman) should observe, that his having been a private soldier in the Royal Guard of the King of Italy was not at all inconsistent with the rank he now held. Those of their Lordships who were at all acquainted with the Continent must be aware, that there was hardly a respectable young man, who had not been a temporary guard of honor either to the Emperor Napoleon, Josephine, Maria Louisa, or the Emperor of Austria. Well, then: Vassali's statement was, that on returning from Inspruck, he and Bergami went directly into the room of the Princess, where they found her Royal Highness sitting on the bed covered with shawls. The little Victorine too was there; and Schiavini and the Countess Oldi soon after came in. This annihilated Demont's story. The fact was, that the party at the inn had been

up all night, making preparations for the journey. The learned Counsel next came to the scene at Carlsruhe, and remarked on the striking evidence of the incessant persecution of the Queen evinced by the fact, that three agents of the British and Hanoverian Governments were concerned to bribe and force Kress to come as a witness. The learned gentleman also observed on the circumstance of a Hanoverian Minister being sent for the first time to the Court of Rome to play the spy on the Princess of Wales; and he also adverted to the complete contradiction of Majocchi's pretended ignorance of Ompteda by the evidence of William Carrington. Kress stated, that on a particular evening, between seven and eight o'clock, she carried water into the Countess Oldi's room, and there saw the Princess sitting on Bergami's bed, with his arm round her neck. Now it appeared that her Royal Highness dined at Court every day during her stay at Carlsruhe; and it was proved by Lieut. Hownam and Count Vassali, that only on one evening did she return to the inn after dinner. Vassali further stated, that on this occasion he accompanied her Royal Highness; that they went into the saloon, where they met Bergami in an uniform; and that the Princess remained in the saloon until she went to an evening party. Here then was an end to the story of Barbara Kress. [The learned Counsel entered into an examination of the indecent part of Kress's evidence, which proving nothing, requires no refutation.]

The only other story connected with an inn was that of Pietro Cuchi, who saw some indecency between the Princess and Bergami take place at Trieste for six days running, though her Royal Highness was only there one day! The witnesses for the prosecution had endeavored to give a bad character to the entertainments at the Barona, as being attended by low persons, and being the scenes of liberties taken with the young women who were present; but no attempt had been made even by those

witnesses to connect her Royal Highness with them, except the improbable relation of Sacchi respecting some flippant observations which he said were made to him by the Princess. It appeared, however, quite manifest, that these entertainments were nothing more than little festivities, such as many ladies of the first rank were in the habit of giving to farmers, or to their tenants and servants. In Pomi's testimony a description was given of these entertainments, which must inspire every man with regret that he was not present at them. *(A laugh.)* They were in fact very elegant and good-humored festivities; the young ladies who attended never came without their natural protectors, and the most profound decorum reigned, as far as the Princess had any cognizance of what proceeded. For a refutation of the gross misrepresentation of the dance of Mahomet, he (the learned Counsel) was indebted to the *Non mi ricordo* gentleman, who had described it as perfectly innocent, and to Mr. Granville Sharp. He now came to the journey from Rome to Sinigaglia, which only to mention was sufficient to remind every one of Sacchi's perjury. In refutation of the indecent scene which he pretended to have witnessed, when, as courier, he rode up to the Princess's carriage, and pulled aside the curtains, it was proved—[Mr. Denman referred to the details]—that Sacchi was not the courier on that occasion, having been superceded on account of some hurt, by Carlo Forti—that the carriage was not one which had curtains outside, but an English landaulet, with spring blinds inside—and that the Countess Oldi travelled in the same carriage. After this, what became of Sacchi's other filthy tales? It was hardly necessary to go through the rest of the witnesses. The Adam and Eve scene at the Villa d'Este was shown to be impossible. The story of Bianchi about her Royal Highness and Bergami being seen bathing in the Brescia by himself and four gentlemen in a boat was disproved by the fact, that the Brescia would

never admit of either bathing or navigating; but that story proved the insurmountable impudence of persons who came over here to abuse English ears with tales which every Italian must know to be false. Guggiari, the boatman, swore to having seen the Princess kiss Bergami in his boat; but he happened to say that Lago Maggiore witnessed this also; and Lago had been called and contradicted him. [Here the learned Counsel said he had forgotten to advert to Sacchi's palpable falsehood respecting his change of name at Paris.] He should say a word respecting the theatrical performances at the Villa d'Este. The Princess was said to have played Columbine, when Bergami played Harlequin. Now such a representation in Italy was entirely dissimilar from the English Pantomime. The name in Italy was Harliquino, and the person who represented that character was the servant or valet of the lady who was called Rosalva, and who, instead of being in love with Harlequino, was the lover of another gentleman called Lellio. Upon this part of the case, as upon other circumstances, he had to observe, that undoubtedly there might have been on the part of her Royal Highness too much affability, too much familiar condescension—too much of a disposition to enjoy and to encourage all the innocent pleasures of life. But she possessed the peculiar talent, which very high rank was found often to possess, of indulging at times in the most familiar intercourse, without losing her claim to that respect which it belonged to gallant and honest men to pay. The learned Counsel then entered on the affair of Rastelli—commenting on the irreparable injury the abduction of that man had done her Majesty, and showing the prevarications of Powell, and the gross absurdity of his pretence for sending away Rastelli. Filippo Pomi had given evidence of Rastelli's attempt to bribe him to swear indecencies against the Princess, by quoting the example of Demont, who had got so much by such

work. Pomi also proved similar agency in Reganti. The clerk Pomarti proved his having received 300 livres for giving up to Vilmarcati the Queen's papers. Here was a most heavy case against the Milan Commission, and Colonel Brown was bound to have been in England to have cleared himself. He had something to say respecting Lieutenant Hownam. That gentleman had stated, that he never saw any impropriety in her Majesty's conduct, and that Bergami's dining with her Majesty never struck him as improper. He was asked if he had ever told Captain Briggs something about going on his knees before her Royal Highness, and entreating her, with tears in his eyes, not to take Bergami to her table? And mark his answer—"I do not recollect it, and therefore I do not believe it ever took place at all." Now Captain Briggs had been since called by the prosecution to state that Lieutenant Hownam had told him of his remonstrance with the Princess; and it was argued from this that Lieutenant Hownam had either told Captain Briggs a falsehood, or had falsely stated to their Lordships, that he saw no impropriety in Bergami's dining with the Princess. This, however, was neither a necessary nor even a probable conclusion. It had been given in evidence, that the Hon. K. Craven once cautioned the Princess against the most innocent condescensions, lest they should be turned against her by spies. Might not Lieutenant Hownam have remonstrated with his Royal Mistress in the same spirit, without seeing the least impropriety in the circumstance of Bergami's dining with her? The learned Counsel then, leaving particulars, proceeded to argue that the general evidence of Lords Guilford and Glenbervie, of Lady Lindsay, Sir W. Gell, Dr. Holland, Messrs. Craven and Mills, was a sufficient contradiction to the false assertions of the Italian witnesses, that her Majesty had fallen into low and degraded habits and society. It was impossible that it could be so, without those persons

perceiving it. There were other strong general presumptions in favor of her Majesty's innocence. "I ask," continued Mr. Denman, "whether it is possible for a person so degraded, in the first place, to have turned away all her servants, at the moment when they had possessed themselves of the most important and damning secrets, and afterwards to have proceeded in that low attachment, that disgusting debauchery, with an individual who had been elevated for the most criminal purposes, in defiance of all the principles with which human nature was ever acquainted? Would not her Majesty, if guilty, have been willing to hide her head in any part of the Continent, in the enjoyment of that luxurious profusion, in which she had been tempted, by offers from this country, to continue even with great splendor? Is it possible to believe, that, after the loss of all that makes life dear and character valuable—after vice and profligacy had become her daily habits—that her Majesty would have sprung to this country, irritated and stung by nothing but this detestable accusation? Look, my Lords, at the conduct of her nameless and unseen prosecutor. The first transaction of this new reign, in which even traitors were spared and felons pardoned by a lavish exertion of the Royal prerogative of mercy, was the most illegal and unchristian act yet recorded in the annals of the British monarchy. Under such circumstances, what shall we say to the Bill before the House? As a Divorce Bill it exists no more; the mere fact that the crime imputed was committed six years ago, dismisses it with contempt; and the fact of the letter of license, written so recently after the marriage ceremony was performed, is of itself an answer to any claim on the part of the husband.

But it is a Bill of Pains and Penalties—a Bill of degradation, dethronement, and disgrace; and if your Lordships shall determine to proceed against this persecuted and injured woman, I can only say that it is your

pleasure to do so. But sure I am that your honor, as Peers—your justice, as judges—and your feeling, as men—will compel you to take part with the oppressed, instead of giving the victory to the oppressor. I was about to observe that there were certain individuals who had not been called as witnesses—simply for this reason—that our case is already proved, and that we do not think it decent, or consistent with the principles of justice, to overload the minutes, already so unwieldy, by admitting that we are bound to go a single step further. We have often heard of challenges and defiances; we have been told that Bergami might be called to the bar, to state that the whole charge was a fiction; but this is one of the unparalleled circumstances of this extraordinary case. From the beginning of the world no instance is to be found where an individual charged with adultery has been called to disprove it. Yet, for the first time, we are to be compelled to put him on his oath! The answer is in a word—there is either a case against us, or there is no case; if there is no case, there is no occasion for us to call a witness: and if there be a case, no man would believe the supposed adulterer, when he was put forward to deny the fact. On this subject the nicest casuists might perhaps dispute, with a prospect of success, on either side of the proposition; but I firmly believe that the feelings of mankind would justly triumph over the strictness of morality, and that a witness so situated would be held more excusable to deny upon his oath so dear a confidence, than to betray the partner of his guilt. Even perjury would be thought a venal crime, compared with the exposure of the victim of his adultery. Surely, for the sake of dragging forward such a witness, the principles of our nature, and of the heart of man, are not to be repealed even upon this occasion, to which so many principles have been made the sacrifice. Recollect, my lords, that this is a criminal prosecution of the highest kind, and requiring the clearest

and the strongest evidence — evidence collected and manufactured during six years of unceasing vigilance and unremitting persecution. We have heard of the distinction between a Queen of grace and favor, and a Queen of right and law: but her Majesty has been taught, by bitter experience, the wider difference between a husband of affection and guardianship, and a husband of jealousy and persecution! After all ties, divine and human, have been broken up on his part, he still thinks it possible to exact, from the alienated and injured object before you, the most scrupulous attention, not only to the substantial virtues of her sex but to the most insignificant appearances of feminine decorum.

Let me ask you, then, what is it that can justify you in passing such a bill? Without looking to the principle, (for your Lordships know that I am not at liberty to do so, and I only advert to it that I may not be supposed to waive any objection), I say that there is not one page of evidence in this whole volume to warrant you in giving it your sanction. There is not a single piece of evidence proceeding from any respectable quarter, which has not been answered or explained; and the inventors of the most minute fabrications have been followed with success through many of their windings and minute ramifications. I know that rumors are abroad of the most vague, but, at the same time, of the most injurious character; I have heard them, even at the very moment we were defending her Majesty against charges, which, compared with the rumors, are clear, comprehensible, and tangible. We have heard, and hear daily, with alarm, that there are persons, and those not of the lowest condition, and not confined to individuals connected with the public press—not even excluded from your august assembly, who are industriously circulating the most odious and atrocious calumnies against her Majesty. Can this fact be? and yet can we live in the world, in these times, and not know it to be a fact? We know, that if a jury-

man, upon such an occasion, should be found to possess any knowledge on the subject of inquiry, we should have a right to call him to the bar as a witness. "Come forward," we might say, "and let us confront you with our evidence: let us see whether no explanation can be given of the fact you assert, and no refutation effectually applied." But to any man who could even be suspected of so base a practice as whispering calumnies to judges, distilling venom into the ears of jurors, the Queen might well exclaim, "Come forth, thou slanderer, and let me see thy face! If thou wouldst equal the respectability even of an Italian witness, come forth and depose in open court! As thou art, thou art worse than an Italian assassin! because, while I am boldly and manfully meeting my accusers, thou art planting a dagger unseen in my bosom, and converting thy poisoned stiletto into the semblance of the sword of justice!" I would fain say, my Lords, that it is utterly impossible that this can be true; but I cannot say it, because the fact stares me in the face: I read it even in the public papers; and had I not known of its existence in the dignity of human nature, I would have held it impossible that any one, with the heart of a man, or with the honor of a peer, should so debase his heart and degrade his honor! I would charge him as a judge—I would impeach him as a judge; and, if it were possible for the Blood Royal of England to descend to a course so disgraceful, I should fearlessly assert, that it was far more just that such conduct should deprive him of his right of succession, than that all the facts alleged against her Majesty, even if true to the last letter of the charge, should warrant your Lordships in passing this Bill of degradation and divorce. I well know that there are persons to whom, under the circumstances, I think it right to allude, who have had an opportunity of reading a vast variety of depositions against the Queen. To those noble individuals I may distinctly say, "You, at all

events, must vote for the acquittal. I know nothing of the facts brought before your Secret Committee, but I know that it is impossible for any rational or honorable man to have presented such a case as has been proved at the bar, as a ground for degrading and dethroning the Majesty of England." The facts proved before that Committee must have been of a far more grave, more disgusting, and more infamous description; and whether they have been proved, or whether the witnesses, publicly examined, have not dared to swear up to their original depositions, I am confident that the Committee never meant it to go forth, that a case of key-holes and chamber-pots, but of notorious and undeniable guilt, ought to be the groundwork of this public prosecution. Then I ask your Lordships, has that case been made out? Is there any man, who can read the evidence even against the Queen, without a perfect conviction that she has been most malignantly traduced? What the boatmen on the Lake of Como may have said to those who were gaping wide for slander, I know not; what reports may have been circulated by her enemies, I know not; what the result would have been, had the facts stated been established, I know not—but I do know, that they have not been proved—that they are false, calumnious, and detestable. Nay, I say one word more to your Lordships—I know that a supposition prevails, that a spirit has gone abroad, dangerous to the Constitution and Government. I have heard it said, that a spirit of mischief was actively at work among the friends of her Majesty: but the same person who uttered that memorable expression, in a few weeks was obliged to admit that it was false, because the truth could not be concealed, that the whole of the generous population of England had enlisted themselves with ardor on the side of the innocent and the injured. At the same time it is possible that both may be true; the sound and middling classes of society may feel acutely for the

situation of her Majesty; and there may be, also, some apostles of mischief lurking in a corner, meditating a blow at the constitution, and ready to avail themselves of any opportunity for open violence. If that be so, the generous sympathy to which I have alluded would be aggravated by a verdict of guilty; while those mischievous and disaffected men would deprecate nothing half so much as to see your Lordships, in the face of the power of the Crown, venturing to pronounce a verdict of acquittal for a defendant so prosecuted. I trust your Lordships will not allow the idea of having fear imputed to you to divert you from the straight course of your duty; it would be the worst of injustice to the accused, and the worst of cowardice in yourselves. I say, therefore, if your own minds are satisfied that all that has been proved has been scattered "like dew-drops from the lion's mane," you will never hold yourselves justified in pronouncing a verdict contrary to the evidence, because your conduct may be imputed to the dread of a mob; or, to use the jargon of the day, which I detest, the apprehension of a Radical attack. You have but one course to pursue, and that course is straight forward; it is to acquit her Majesty at once of those odious charges. We may truly say, that as there never was such a trial, so there never existed such means of accusation. Before I conclude, I must be permitted to say, that, during the whole of this proceeding (though personally I have every reason to thank the House for its kindness and indulgence,) the highest gratification resulting to my mind has been, that with my learned friend I have been joined upon this great occasion. We have fought the battles of morality, Christianity, and civilized society throughout the world; and, in the language of the dying warrior, I may say,

> "In this glorious and well-fo ighten field
> We kept together in our chivalry."

While he was achieving the immortal victory, the illus-

trious triumph, and protecting innocence and truth by the adamantine shield of his prodigious eloquence, it has been my lot to discharge only a few random arrows at the defeated champions of this disgraceful cause. The House will believe me when I say, that I witnessed the display of his surprising faculties with no other feelings than a sincere gratification that the triumph was complete; and admiration and delight, that the victory of the Queen was accomplished. This is an inquiry, my Lords, unprecedented in the history of the world: the down-sitting and up-rising of this illustrious lady have been sedulously and anxiously watched: she uttered no word that had not to pass through this severe ordeal. Her daily looks have been remarked, and scarcely even her thoughts escaped the unparalleled and disgraceful assiduity of her malicious enemies. It is an inquisition, also, of a most solemn kind. I know nothing in the whole race of human affairs, nothing in the whole view of eternity, which can even remotely resemble it; but the great day, when the secrets of all hearts shall be disclosed!

> "He who the sword of Heav'n will bear,
> Should be as holy as severe!"

and if your Lordships have been furnished with powers which I might almost say scarcely Omniscience itself possesses, to arrive at the secrets of this female, you will think that it is your duty to imitate the justice, beneficence, and wisdom of that benignant Being, who, not in a case like this, where innocence is manifest, but when guilt was detected, and vice revealed, said—"If no accuser can come forward to condemn thee, neither do I condemn thee: go, and sin no more."

A pause of some moments occurred after Mr. Denman had concluded; and the Earl of Liverpool had risen to move the adjournment, when

Mr. Brougham advanced to the bar, and observed, that although the summing up of the case of the Queen

was now closed, if the other side intended to reply by more than one Counsel, he should wish to take till to-morrow morning to consider whether he would not request the House to permit Dr. Lushington also to address it.

The *Attorney-General* answered, that it was undoubtedly his desire and intention to avail himself of the assistance of his learned friend the Solicitor-General. This privilege had been allowed on former occasions, and particularly to the Counsel for the Queen, when two of them were allowed to open their case.

The *Lord-Chancellor* said, that the rule, subject to any re-consideration, was, that the House would hear two Counsel on each side, and, in his opinion, either party, waiving that privilege, did not deprive the other of the right to exercise it.

Mr. Brougham added, that he did not intend to waive his claim, and would therefore request the assistance of his friend Dr. Lushington, to-morrow morning.

Adjourned.

OCTOBER 26.

Dr. Lushington assured their Lordships, that had he been left to the exercise of his own discretion, or if he had thought himself at liberty to follow the dictates of his own mind, he would not then have had to crave their indulgence in addressing them; but on the present occasion, acting in the discharge of his duty to his illustrious client, he was bound to be guided by the judgment of his learned colleagues, who were of opinion that the bearings and details of this extraordinary case were so extensive and important, that even, after all that had been so ably stated by themselves, some little addition might be advantageously made by him.

Their Lordships must be aware that the task he had now to execute was one of a very difficult nature. He had to call their Lordships' attention to the subject, when that attention might be considered in some degree exhausted: and what rendered his duty the

more painful and difficult was, that he came to the performance of it with ability inferior to that which they had already heard exercised on the subject. But, amidst the difficulties with which he had to contend, he had one consolation—the consolation, that in the judgment of his learned friends, this case stood upon so firm a foundation, that even the indiscretion of an unskilful advocate could not injure it. To this he had to add the additional consolation, arising from his own firm conviction, that the more this subject was discussed the more satisfied would their Lordships be of the complete innocence of his client. He should endeavor to avoid repetition wherever that could be done. He would as little as possible touch on the topics so ably discussed by his learned friends; but their Lordships must perceive that, were he gifted with the greatest powers of eloquence, it would be impossible for him to make himself intelligible, unless he sometimes spoke with reference to points which had already been discussed. It was his duty, in the first instance, to make one or two observations on the charge as a case between husband and wife; and here he must observe, that though, through the whole of his professional life, he had been conversant with cases of adultery, he had to declare that this was the most extraordinary he had ever read or heard of. Indeed, such were the circumstances of this case, that he believed he might safely say, not only that it was unprecedented, but that there was not a shadow of semblance to be found in all the records of the courts in which such cases were tried. It was not that it was a case of novelty with respect to the rank of the individual; it was not its want of analogy with other proceedings; it was not that the head of the government was the accuser; it was not that the government formed the very party who prosecuted; it was not all these things, uncommon and extraordinary as they were, which so

particularly marked this prosecution; for these circumstances were such as might have equally occurred in some other cases;—but that which first, and above all, distinguished the present case, was the age of the party accused. He was bold to say, without fear of contradiction, that no precedent could be found in modern times where a husband sought a divorce by accusing of adultery a wife of fifty years of age. The absence of any case similar in this respect gave to the present a degree of improbability which, he confessed, appeared to him to deserve their Lordships' serious consideration. This observation did not merely apply to wives separated from their husbands, and who had not lived together for many years; but, whether living together or separate, there was no instance on record of a prosecution for divorce by a husband against a wife who had attained the age, he would not say of fifty, but even of forty-five. But who ever imagined a case like the present? In addition to the circumstance of the age of the accused, there was here that of a husband who had been for twenty-four years separated from his wife; separated not by any desire on her part, but by his own caprice, by his own act and choice—not in consequence of any misconduct of that wife; for not even a breath of suspicion was at that time whispered against her; but by his pursuit of some wayward indulgence—some capricious fancy. In this way had been broken, for self-gratification, those bonds which the laws of God and man had formed. How, then, did the case stand? Were his Majesty a simple subject, was there a man in the world who would say that he was entitled to any consideration whatever in an application for divorce—that it was possible he could have any injury founded on such a complaint, for which he could claim redress? As a husband, then, the King had no right to seek redress. But then it was said, that this application was not in the name of the King, and that the law in the

case of a subject was not applicable to the Sovereign. Let, however, no one presume to say that he is emancipated from obedience to the laws of God; for that assertion, of whomsoever it be made, was founded in untruth and falsehood. It was also said that rank and station in the wife required a more rigid observance of duties than in the husband; but was there any duty which was not reciprocal? Was it not so with respect to matrimonial rights? And was it to be said that there was one law for woman and another for man? or did superiority of rank make the engagement taken at the altar of God less binding? Was the private individual to be told that there was one divine law for him and another for the sceptered monarch? What was the plighted troth of the husband—what the promise made at the altar? To love and to comfort. But how was that promise observed? Where was the love?—where the comfort? Where should he look for the one or the other? The comfort! what traces were there of it? If he went back to 1806, was it to be found there? or must he look for it in 1813, at that period of cruel interference when the intercourse between the mother and the daughter was prohibited? Was it to be sought for at the period when the mother was exiled to a foreign land? No: there it did not exist; for wherever she went the spirit of persecution followed her. It was inconceivable that a wife thus deserted, thus persecuted, should now be told that she has been unmindful of her duty, whilst the husband, who was pledged to protect her, had allowed her to pass through the world without a friend to guard her honor. He regretted the discussion of those topics. He knew well that, when the acts of kings were brought before the public, there were individuals who dwelt with triumphant satisfaction on the exposure. No man could feel the difficulty of his situation more than he did, when called upon, in the performance of a solemn duty, to dwell upon such

painful considerations; but he owed it to himself and to his client to speak out boldly. There were individuals without number, always anxious to see the failings of kings, that they might turn them into derision. He would, therefore, say as little as possible upon this ungrateful subject. It was almost needless to follow it through all its bearings; but if he were in one of those courts where cases of this kind are usually decided, what should he say to the husband who, insensible of his own honor, allows his wife, for a series of years, to live unprotected, and then offers her 50,000*l.* a year to live abroad, knowing, as he said, that she is in a course of adultery, but without giving one direction that the adulterous intercourse should cease before she enjoys the large income proffered to her? What would he say to an individual so acting towards his wife, who said to her, not in the language of pardon and admonition, which his learned friend had repeated, "Go, and sin no more"—but, "Go, and indulge your appetites, continue your adulterous intercourse, and you shall be furnished with ample means for living in splendor with your paramour?" He was happy that he was not under the necessity of introducing another topic. He was glad to state that in this case he was not called upon, by any consideration of the duty towards his illustrious client, to say one word by way of recrimination; he thanked God, and the wisdom of his learned colleagues, who had so advised her Majesty, that the case upon which they built their hopes of acquittal was one of perfect innocence, and that, by avoiding recrimination, he should save the House and the country from all its consequences. Their Lordships could not, unless fully prepared to violate the laws of God and man, declare against his client. That venerable bench of bishops, who formed part of the judges, could not, without violating the holy tenets of that Gospel which they preached and inculcated, pronounce against the wife of

their Sovereign. The laws of God and of the country were upon her side, and he was sure that it was not there that they would be violated. Before he entered upon the consideration of the evidence, he trusted that their Lordships would suffer him to say a word or two on the principles by which they were bound to be guided. It was not that he sought an acquittal on a point of law; it was not that his cause required technicalities, that he wished to draw their Lordships' attention to this topic, but to prevent those who might not be conversant with the law of divorce from being misled by the statements which had been made on the other side. Their Lordships would recollect that the Solicitor-General, in his summing-up, had adverted to the case of "Lowden v. Lowden," which was tried before Sir W. Scott, in the Consistory Court, in 1809—that enlightened judge, whose matchless talents no man was more sensible of than himself, and to whose authority no one was more disposed to bow. But he was surprised that his learned friend, the Solicitor-General, should have quoted an insulated passage of that eminent person's opinion, applicable to the present proceeding, and when the words conveyed no idea of the decision; for no man, far less that learned judge, could have meant to represent that adultery was a crime of the proof of which no certainty was to be obtained. But what was the judgment quoted? it was this:—Sir W. Scott said, "It is not necessary to prove the direct fact of adultery; for, if that were the case, there would be no sufficient protection for private life. The offence cannot be proved by artificial inference, but by general acts and circumstances, which were of themselves of so suspicious and positive a character that adultery had been committed, that no just and honest man could doubt." The case had been most ably argued, and there were acts of criminality proved by witnesses above all idea of suspicion, and there were

also the intercepted letters of Mrs. Loveden—letters which, as Sir Wm. Scott observed, a woman the inmate of a brothel would have been ashamed to write. These letters, and other circumstances proved in evidence, carried with them the most complete conviction that the crime of adultery had taken place. But while he was talking of legal grounds of evidence, their Lordships would recollect that, what in this case had been evidence, in the Ecclesiastical Court, had not been considered such in the civil action for damages; for in the court below a verdict was given for the plaintiff. This, therefore, was a most unfortunate case for the other side. The evidence, indeed, was still stronger in the court of law than he had yet stated it; for it was then proved that Mr. Parker, against whom the action was brought, had passed a night in the bed-room of Mrs. Loveden. He must now observe to their Lordships, that he thought it not a little extraordinary that his learned friend, the Solicitor-General, should have selected this case as affording any support to his own. But there was another case to which he could refer as an answer to that offered on the other side—he meant the case of "Mortimer against Mortimer," which was decided July 12, 1816. In this case the proofs were so strong that the Counsel for the wife were about throwing up their briefs, and declining to argue it. The learned judge, who never forgot that legal justice ought to be administered, called upon the Counsel to argue the case. It fell to his (Dr. Lushington's) lot to argue it, and ultimately the judge pronounced that the husband had failed in proof of the adultery having been committed, and he used this important expression: "I may have a moral conviction of her guilt; but I have no judicial proof."

Let it not be supposed that he was asking for a decision in favor of his client on account of a deficiency of proof, and against their Lordships' moral convictions. By no

means. He called for acquittal because there was not a particle of proof in the present case which any honest man, any man of common intelligence, would not consider as destitute of credibility and unworthy of his regard. He had adverted to those cases in order that their Lordships might not run away with the erroneous idea that in any other court the crime of adultery was allowed to be proved by any other than what was usually considered legal evidence. If their Lordships would allow him, he would state in few words what his case was. Here were circumstances which, coupled with opportunity, were said to lead to a demonstration of the guilt of the parties. That opportunity alone should be evidence of guilt against one was a proposition that he was sure none of their Lordships would allow for a moment. He admitted that if acts of indecent familiarity were seen—if the same parties were observed seeking opportunities of criminal intercourse—then it would not be necessary to go further; but the circumstances ought to be before them with the same degree of certainty as the opportunities. It was not necessary to enter into a long argument to show the character of the witnesses. He would contend that Demont, Majocchi, Sacchi, and Rastelli, were all perjured. In a common case, after proving the perjury of the principal witnesses, if the judge did not stop him and say it was not necessary to proceed further, he would indignantly throw up his brief; for no respectable judge would suffer a case to stand on minor and weaker evidence when its strong and chief support was destroyed. What! when he had shown that one, two, three, four and five witnesses had been perjured, was he to be told that he must go on to prove that six, seven, eight, were also perjured, or a verdict of guilty would be found? Where would be the safety of any man were this the practice in courts of law? Could their Lordships expect it to be done? By the wisdom and goodness of Providence men were enabled to detect conspiracies. They were

often able to bring to light a foul scheme of conspiracy, by proving the falsehood and rottenness of a certain part of it. But that gracious Power, whose ways are wisdom, had not thought it right to give the means of ascertaining truth beyond the bounds of necessity. Men were only required to have that knowledge which came within the limits of our circumscribed faculties. But on whom did justice impose the burden of proof? Even those of their Lordships least conversant in law must know that the duty of proving a proposition lay on him who propounded it—that the plaintiff had to make out his action satisfactorily, or to be defeated. And their Lordships would bear in remembrance, that he who sought to take away the life and character of any individual was bound, by every law of nature and man, to do so on evidence not only unsuspected, but unsuspicious. He had no right to take upon himself the odious office of an accuser—to drag his fellow-creature before the bar of the world, and say—"Thus far will I go, and no further." He was not to say, "I have brought you into court, and, though I cannot prove my charges, you shall not leave the court without a suspicion on your character." His failure of proof was the justification of the accused. Since the day in which the folly and superstition of their ancestors first led their victims through fiery ordeals and over burning ploughshares, no man had ever been called into a court of justice, and been compelled to prove his innocence in the first instance. He would now come to the consideration of those facts which his learned friends on the other side had boldly stated that they had proved, which they said were irreconcilable with innocence, and were the certain forerunners of guilt and infamy. The first trait was the conduct of the Queen towards Bergami. The Attorney-General, commenting with great ingenuity on the facts of the case, had adverted to the general principles which govern human life, and had said that, if they were to be

depended upon, it was clear that the Queen had so conducted herself towards Bergami that guilt must necessarily have occurred between them. "I will show you," said the Attorney-General, "that she was so much under the control, power, and influence of this domineering paramour, that his will was her way, and that his pleasure was her rule; and if, (continued he,) I prove these facts, it is clear they can have only arisen from the last favors having been granted to her paramour." The natural effect of such intercourse, he added, was to alter the respect that ought to subsist between the parties, and to destroy the decency and decorum which ought always to be observed between a person of royal rank and one in the capacity of a menial servant. When once a Princess had thus debased herself, it occasioned in the low individual, the object of her passion, a degree of assumption and freedom to which otherwise he would have made no pretensions. This was the case here, said the Attorney-General: Bergami became more haughty; he took upon himself an air of greater importance, which grew more and more as the intercourse proceeded. Now he (Dr. Lushington) would undertake to prove, that no such freedom, no such familiarity, no such importance, had ever taken place; that there had been no want of respect, that there had been no want of regard to all the decorums of life in either or both of these two parties. [Dr. Lushington then proceeded to point out the evidence by which that assertion was indisputably proved, referring their Lordships to the minutes; and after going through the evidence of the witnesses against her Majesty, clearly showing its fallacy, said]—In adverting to the occurrences at Carlsruhe, and to the evidence of Kress, he must remark that they stood in a peculiar predicament. Kress was a witness who had been compelled to appear at their Lordships' bar and to depose against the accused. But all the exertions of his Majesty's ministers and of the British

government, had not availed to bring over to England the Chamberlain of the Grand Duke of Baden, a witness for the defence. He did not mean to cast any blame on his Majesty's ministers, but the plain and undeniable fact was as he had stated it. Either Kress was forced to come, or she had sworn what was untrue. If she stated what was true, their Lordships could never have met with a case of greater oppression and tergiversation than that which stared them in the face in the conduct of the Grand Duke's minister, the Baron de Berstett. If, indeed, what was stated by Berstett was true, the witness Kress had committed perjury. It was, however, too much to hear this minister afterwards saying, in his correspondence with Mr. Lamb, that he "trusted his exposition of facts would furnish a most convincing proof of the impartiality and justice of his government." If the government of Baden had been just or impartial, then, he repeated it, Kress was a perjured witness. If, my Lords (continued the learned gentleman), there has been influence more powerful than that of Great Britain exerted upon this occasion—influence which has operated not only in deterring the Baron d'Ende from coming to this country, but which has even induced the Minister of the Grand Duke of Baden to falsify himself in the eyes of the whole world—in that case, I would ask your Lordships, whether there be one among you who will tell me that I am to proceed with my defence to Carlsruhe; where British influence has failed, but where other influence has succeeded in compelling the attendance of witnesses on the opposite side, at this bar, and in withholding, at the same time, the witnesses for our case. I will not stain the purity of your Lordships' proceedings, I will not pollute a court of justice by dwelling more than for one moment upon those disgusting facts. I will not impugn the integrity of this House, by supposing that there is now within it one honest ear which will not be shocked at their recital." He meant

to cast no political reflection upon any particular country; he viewed with no contracted prejudices any noble foreigners; but he was sure that the House would unite with him in looking with deserved contempt upon some individuals among those foreigners—upon Hanoverian ambassadors, for instance, taking upon themselves the dignity, the honor, of becoming inspectors of dirty sheets, and searching into the contents of foul clothes' bags. Why, then, to the great shame and disgrace of those individuals, he would say (and, at least for the morals of England, he might say it,) that they had been actuated in this their meritorious proceeding, by the native propensity of their souls to grovel in filth, and to revel in obscenity. He need hardly state, that in such a disgraceful course no individual would be found ready to embark who boasted the name of an Englishman; much less one who bore that character. He would now trouble their Lordships with no more instances, with not another single observation drawn from, or applying to, the particular accusations contained in that part of the evidence to which he had adverted. There was, however, one point in this case which he held himself bound to bring under their Lordships' consideration, and which, he thought, well deserved their notice. They had been told that they had closed their case without producing the boy Austin, the Countess Oldi, Mariette, the half-sister of Demont, Schiavini, or others, who are now in attendance within this House, as witnesses summoned on the part of the Queen. With an astonishment which he never could forget, had he heard his learned friends on the other side charge them (the Queen's counsel) to produce their witnesses. Produce their witnesses! When these counsel had established no guilt, they were to be told, "you shall establish her innocence;" as if this were really an inquiry only into the conduct of the Queen, and not a hostile attack, founded upon false evidence,

procured by the most iniquitous means, against the honor, rank, and character of her Majesty. Produce their witnesses!—as if his learned friends, now that they had finished their case, could bring forward one single instance among their list of criminal charges, which was made out against her, which was not, indeed, absolutely refuted. Let their Lordships consider, for a moment, the case as it now stood. At one period of it, his learned friend, Mr. Brougham, had said, after finishing, perhaps, one of the most able and eloquent arguments ever yet addressed to that House, against calling in Mariette Demont, "notwithstanding all this, I will call her." Mr. Brougham was right in saying so at the period of that case. He was right, because the Queen's witnesses had not then arrived. His learned friend did not then know, that they should be able to take the case, particle by particle, and to show to demonstration its fraud, falsehood, and perjury. "Therefore," said he (Mr. Brougham), "we must meet this case, by adducing general evidence of the Queen's conduct in opposition to all that Demont upon her cross-examination may be able to say."

But now that the case was changed, he (Dr. Lushington) would ask their Lordships, in the name of common sense, how these witnesses would stand? They were the witnesses best known to the Queen—who had had the best opportunities of observing her conduct—who were under the greatest obligations to her. Now, if no stories could be extorted from these individuals against her, if no serious ground of charge could be got at out of their depositions, then what an outcry would there be raised against them! His learned friends would directly exclaim, "Oh, their evidence is not credible; they are under obligations to the Queen; they are relations of Bergami, they cannot be believed." Would any counsel who did not deserve to have his gown stripped off his shoulders venture to produce witnesses under

this liability and disadvantage? Aye, but was this all? If they were persons so connected, if they were people of credibility, why, he would ask, had they not been produced on the other side? Why had not the Solicitor-General, who had told their Lordships that he had laid before them all the testimony that was deserving of credit, exerted himself to obtain evidence of a character more unquestionable than his own? Even upon this argument, was this credibility to be the exclusive privilege of those who appeared on behalf of the accusation? Were they to reject these witnesses as non-essential and not deserving belief, and to say that the others were essential witnesses to the cause? Under such circumstances, were the Queen's counsel to be required to produce testimony that was liable to be so met? No man of judgment would have done so, or necessity alone could justify it. Did that necessity exist upon the present occasion? Let his learned friends point out to him one single part of their case supported by any credible testimony, which they, the Queen's counsel, had not met; one single accusation which they had not rebutted. Before he (Dr. Lushington) put Mariette into the box, he must have something further to do. He would not bring her there to disprove charges resting upon testimony to which no man could give credit; to be exposed to the merciless fangs of such a cross-examination as Carlo Forti and some other of the Queen's witnesses had undergone. It was not, he could assure the House, that he feared the terror of a cross-examination, as applied to any one of those persons who had formerly surrounded her Majesty, while that cross-examination was confined only to the acts of the Queen. While that was the case, he feared not even the opportunities for misrepresentation. But when he saw what had been the course taken here; when his memory served him to the instance of the Earl of Guilford being rigorously cross-examined as to some declaration made at a private

dining-table about a Greek servant; and when he remembered that that declaration was not once charged by either of his learned friends in the opening, but came out only in the course of examination; when he saw another person examined as to a scene that had occurred at the Villa d'Este years since, and of which they had not heard till the moment in which the question was first put from the other side, he was sure that he should only expose a witness to that unfair species of examination-in-chief which any knowledge of his, as to the fact, could not, upon cross-examination, set right. What he contended for, then, was this, that the Queen should be tried by her own acts; by what she herself had said or done. Every witness produced upon the other side was obliged, upon his evidence in chief, to speak to those acts of the Queen; but if they (her Majesty's Counsel) produced a witness, and if, in the course of the whole six years, it unfortunately happened that some lapse of memory, some quarrel with Bergami, some personal caprice, or any other of the numberless incidents which such a space of time must necessarily furnish, should have induced him to do what?—why to have uttered an expression which could by possibility be tortured into an expression of disrespect towards the Queen, what consequence would follow? This—that the Queen would suffer, not from what she had said or done, but from what one of her witnesses, in a moment of passion, forgetfulness, or accident, might have said or uttered. Their Lordships would remember in what manner Lieut. Hownam had been asked as to his declarations, and how other witnesses had been interrogated upon the same point. There was one other circumstance that he was sure they would not forget—that the purpose of inquiring into the declarations of witnesses was to attack their credit by procuring a contradiction. Would any man who presumed to advocate a cause be justified in producing witnesses who were to be examined as to such

declarations when the whole depôt of Cotton-garden might be produced to falsify them, and was always in readiness to come forward for that purpose? Believing this to be a case of the kind he had described, to be a false, foul, dark, and malignant conspiracy, he had no hesitation in saying that, judging not by the arguments that had been offered, by the experience of the past, by the records upon their Lordships' table—not by what witnesses might do, but by what they had done—it would be easy for his learned friends to renew those disgraceful scenes which had already been manifested at their Lordships' bar, and, by means of the same description of testimony, to contradict whatever evidence the Queen's Counsel might call. Therefore it was, he maintained, that necessity had not called upon him to discharge that duty, and he did hope that the first duty of a Counsel was not to expose his client to the risk of any injury; while there was any man who, in the honesty of his heart, dared to say that there was no accusation which was not disproved. Their Lordships would think him justified in saying that there was now not one point in this case which required further elucidation. If he turned to look at the examinations, and to contemplate the difference between the witnesses whom her Majesty's Counsel had produced and those produced upon the other side, fearlessly would he hold it up as one of the most singular contrasts that the annals of legal proceedings could furnish. He could say, look at their character, look at their conduct; but above all, look at the obligations on the one side to speak the truth, and the absence of all those qualities on the other. Witnesses their Lordships had had in abundance: they had seen a commission instituted for the express purpose of doing what?—of inquiring into the guilt or innocence of the Princess of Wales. He knew not the tenor of the instructions under which that commission acted, but by their effects he knew what those

instructions were. And this he knew, that the moment the commissioners were established at Milan, they began by taking the testimony of discharged servants, and never once availed themselves of the opportunity of examining whether that testimony could be contradicted or confirmed by persons of greater respectability and under less suspicious circumstances. What then, was the state of this case? He would ask the House if such an instance ever occurred in any former proceeding as that which he was about to notice. The witnesses against the accused were discarded by the accused, and retained by the accuser. They were taken into the employment, and received the pay of the prosecutor himself. Their Lordships could not but consider as one additional circumstance of odium attaching to the whole of this proceeding, the absolute, the indisputable temptation, thus thrown in the way of some of the parties. He besought their attention to the existence and the operation of this fact: Rastelli was taken away in the first instance; Sacchi came next, and then these men themselves were sent to seek confirmation of those very fabrications and evidence which they were the first to originate and arrange. Gracious God! what could be the end of a measure proceeding upon testimony thus procured? What would the event prove, or who could foretell the consequence of an investigation resting upon the evidence of men who had so acted? Did any one ever hear of a precedent for so extraordinary a case? Here were two of the witnesses, Sacchi and Demont, who had been kept at the sole expense of the prosecutor for fifteen months previous to their appearance at the bar, and two others of them, Rastelli and Majocchi, certified and acknowledged to be in his employment. These were facts more than amply sufficient to demonstrate the anomalous and unjust nature of that commission; that commission, indeed, sat not, acted not, for the purpose of truth. Having opportunities, by examination and

inquiry, of acquitting the Queen from the foul slanders propagated against her, they had proceeded to prepare and encourage accusations against her; vested with sufficient powers to ascertain and defeat the malevolence of her enemies, their conduct had tended only to injure and betray her. There was not one of the witnesses produced before the House who possessed any one of the qualifications which are the usual characteristics of truth; they were persons of no character, at least they had none to loose; they had no punishment to dread, and even after they arrived in England they must have learned from the memorable example and timely flight of Rastelli, that whatever had been the falsehood of their depositions, or however it might be desired rigorously to sift their evidence, impunity and escape might yet be possible. They were, therefore, in no fear of punishment even in the event of contradiction. Now, was it requisite for him to say one word as to the proof of the existence of this conspiracy? He thought his learned friend (Mr. Denman) had left it so established, that no observation from him was requisite: nay, he would say this: the parties accused, it must be confessed, were Colonel Brown, Vimercati, Riganti and Rastelli; he had, he must own, heard one word said in favor of Colonel Brown; but not one could be urged in favor of Vimercati. Of those who alone could have proved or disproved the charge, Rastelli had gone to Italy (and his departure was justified on false pretence); and the other, Riganti, was the very individual who first procured the services of Rastelli, as their Lordships would find at page 42. This latter the other side had not dared to call; had they done this—had they boldly put Riganti to the bar, and brought him to contradict the testimony of Omati and Carlini, then might they have said, with something like a seeming of fairness, and with something like a show of justice, that they had openly met the charge. The Queen's Counsel had dône

all that was required for the ends of justice; he said nothing against those who were with the prosecution; but when he saw that they had neglected so to avail themselves of the means of calling such evidence as might elicit the truth, when they had dared to put one of the principal conspirators in the box to answer for himself, away with this false pretence of justice—away with this frivolous pretext of fairness, and with every claim to openness and impartiality. Let it be remembered that there was at that time no impediment to bring forward such evidence with becoming honor and fairness. What argument, then, could justify the course that had been taken? If he ventured to assign any one, it would be this—the consideration of Vimercati. Never once in the course of the cross-examination did his learned friends presume to approach any facts that should prove, that, as far as Vimercati was concerned, the whole of this abominable and atrocious conspiracy had been carried on by means the most unjustifiable; that the evidence which the Milan Commission produced, had been procured by means which an honest man would have shrunk with horror from employing. He would, however, say nothing further of the conduct of those who, having the power, ought to have used it to discover the truth. All he would say was this—that, vested, as it was, with all the means which a First Lord of the Treasury could command, possessing all that influence over Foreign Ministers which he could exert, established in full authority at Milan, and sending its couriers and agents throughout all Italy and Germany, never had the unlimited power of this Commission, particularly its power of information, been exercised in one solitary instance to obtain the ends of justice. Sir William Gell remained in Italy unquestioned; Mr. Craven remained in Italy unquestioned; Doctor Holland unexamined; Count Vassali uncalled for; Sicard unsought. He did not say what ought to have been the course these individuals

should have adopted, but he did say, that when all these powers were intrusted to the hands of the accuser, it was the most extraordinary—the most solitary instance of their exertion in any other way which he had ever heard of, that Lieutenant Hownam was sent for by the First Lord of the Admiralty, to be asked where James the seaman was, after all the industry and perseverance which had been manifested in support of the prosecution —one half of that industry and perseverance excited, *bona fide*, for the interests of justice, would have saved their Lordships the painful duty of now listening to those well-founded representations her Majesty's Counsel were bound to make. An impartial investigation of the evidence on both sides, before the proceeding was instituted, would have saved the country the evils which at present impended over it. He had now to thank their Lordships for the indulgence with which they had heard him, after their attention had been already so many times engaged by this strange inquiry. He left his illustrious client, her honor and character, in the hands of the House, with the most perfect confidence: he left her, not to the mercy, but to the justice of their Lordships.

Dr. Lushington having retired from the bar,

Earl Grey observed that, at this late hour, he thought it would be unfair to the learned gentlemen on the other side to require them to commence their reply. Before the House adjourned he would, however, take the opportunity of stating, that, after re-considering the subject, he did not intend to persevere in the motion of which he had given notice on a previous day; the production of depositions abroad could only apply to Demont and Sacchi, because they only appeared to have been sworn to those depositions. Had he given his notice at an early period of the inquiry, it might be proper to persevere in it; but it seemed useless now to call for depositions, when no opportunity would be afforded to the witness of reconciling, if possible, any

apparent discrepancies. For this reason he withdrew his notice, though he thought it right to add that, with regard to the two principal witnesses he had named, he certainly wished for no further information.

The House then adjourned.

OCTOBER 27.

The *Attorney-General* proceeded to comment on the evidence on both sides, in reply to the Queen's Counsel. After the usual lawyer-like preliminary professions, he declared, that after all the long and able defence of her Majesty, the evidence on behalf of the prosecution had not only not been contradicted, but supported by the evidence on the other side. He begged their Lordships to keep in mind, while he proceeded with his remarks, the extraordinary and rapid elevation of Bergami; which, notwithstanding the arguments of his learned friends, could only be accounted for on the supposition of an adulterous connection. He had opened his case at the beginning of the trial with the transactions at Naples; and he should now convince their Lordships of the correctness of his first statement out of the mouths of the adverse witnesses. Demont's evidence of the transactions in question was uncontradicted. First, as to Wm. Austin's sleeping out of the Princess's room before they came to Naples, Demont only swore that he *generally* slept in the room; and their Lordships would recollect, that Mr. Craven and William Carrington could only say, that he slept elsewhere once or twice previously. Secondly, it was said, that Sicard made the change of Bergami's bed-room without the knowledge of her Royal Highness. But what did Sicard say in his examination? Why, that he had no communication with her Royal Highness on the subject; but that her communication was made to Hieronymus; and Hieronymus not being called to explain that fact, though still in her service, and being the only person who

could have satisfactorily proved it, had it actually occurred, created a strong suspicion in his (the Attorney-General's) mind, that her Majesty made that arrangement herself. Then, again, as to the alleged reason; Sicard said Bergami was removed to a certain room because he should guard the entrance from the garden through a glass door in that room; whereas William Carrington stated the reason of Bergami's removal to be, that he could not stand upright in his former room. This was a direct contradiction. Thirdly, it was said that Demont was contradicted because the Queen was proved to have come home late from the opera; but he maintained it was no contradiction; for Demont only stated her impression that her Royal Highness came home early. With regard to the lateness next morning, Demont had further deposed, that after dressing the Princess, her Royal Highness remained for an hour and a half in the cabinet adjoining Bergami's bed-room: this was not contradicted; for Sicard only said he did not recollect. Mr. Williams had promised to call some one to falsify Demont's statement, that the large bed in the Princess's room appeared to have been slept in by two persons, though the small travelling bed did not appear to have been used at all,—but this had not been done. Thus the testimony of Demont concerning the Naples transactions stood unimpaired. His learned friends had argued, that if this first part of the case was destroyed, the rest must necessarily fail; but he denied that; supposing that evidence to fail, the rest of his case remained untouched. The testimony of Demont respecting her meeting Bergami undressed in the corridor was untouched; and the ingenuity of his learned friends could not weaken that fact. He now came to the masked ball. It was admitted on all hands that her Royal Highness did appear there as the Genius of History; and whatever might be said by Sir William Gell of the decency of that dress, he compared it to Mr. Hope's

Minerva or the Cariatides, and though he (the learned Attorney) had not seen those figures, he understood they were clad with only a thin drapery, and had their arms bare. But Sir Wm. Gell admitted her Royal Highness's absence fom the ball for three-quarters of an hour, and Demont proved those three-quarters of an hour to have been spent in changing her dress with Bergami. Sir W. Gell further asserted his optics were acute enough to enable him to distinguish the dress of the Neapolitan peasant under that of the Genius of History! With regard to the masquerade at the theatre San Carlos, he (the Attorney-General) did not blame the Princess for going disguised to it; but he would contend that it was a most imprudent and suspicious step to go only attended by Demont and by Bergami, the newly-hired courier. Could their Lordships draw any other inference, than that it was because an adulterous intercourse had commenced between her Royal Highness and this Bergami at Naples, and had continued from thence till she arrived at St. Omer's? Demont had stated, that Bergami and the Princess walked arm-in-arm on a terrace in the garden at Naples; and this was attempted to be disproved in the most extraordinary manner:—Sir W. Gell and Mr. Craven stated that Bergami was walking only five yards behind her, but the latter thought it proper to warn her Royal Highness against any outward appearances of that sort on account of spies. Now why was this caution unless Mr. Craven had suspicions of improper intercourse? He contended, that Majocchi proved adultery by the fact of the Princess passing through his room at night to go to Bergami's. These were the facts at Naples, corroborated by the evidence in defence. [The learned Counsel proceeded to allude to Bergami's having once come up to the Princess's carriage and asked for some drink—to the very speedy introduction of the Countess Oldi and Bergami's other relative into the family—to the Princess never having announced

the Countess Oldi as Bergami's sister—and to the gift of the golden chain to Bergami at Venice. In the course of his remarks on these points, he observed that Majocchi was a slandered person, which excited an emotion in some parts of the House.] As the Attorney-General was about to retire for a short time—

Mr. Brougham appeared at the bar, and stated that he had just received a parcel of letters, proved to be the hand-writing of the Baron d'Ompteda. These letters had been written to Mariette Demont, and were for the purpose of suborning witnesses to give evidence against her Royal Highness.

The *Attorney-General* expressed his surprise that further evidence should be offered after the case was closed.

The *Earl of Liverpool* said, whatever might be the importance of the papers, they ought not to be introduced in the middle of the Attorney-General's speech.

Lord Holland and the Marquis of *Lansdowne* thought it highly proper that her Majesty's Attorney-General should communicate the papers to the House.

Here the conversation dropped.

The *Attorney-General* resumed. He would now proceed with the line of argument which had been interrupted, when, by the indulgence of their Lordships, leave was given him to retire. He was then coming to that period when her Royal Highness embarked on board the Leviathan, at Genoa; and, in coming to that part of the case, he could not but remind their Lordships of the evidence given by Demont and Majocchi, respecting the disposition of the rooms at Genoa, at Milan, and at the various places to which she and her suite went, after her Royal Highness's first arrival at Naples. He called their Lordships' recollection to that portion of the case, in order to show that the evidence of this fact was not contradicted by any testimony on the other side. In one instance, and in one instance

only, a contradiction was attempted, as to a staircase at the Villa d'Este.

Majocchi stated that there was what he called a secret staircase, near her Royal Highness's room, not generally used by the family, to which a contradiction was attempted to be given by Mr. Hownam, who merely stated that it was a staircase leading to the apartments of himself and others, but which was only made use of by him. He directed their Lordships' notice to this part of the case, because they would find that the same system was pursued when her Royal Highness went on board the Leviathan. Capt. Briggs had previously made a certain arrangement and disposition of the vessel, placing her Royal Highness and the Countess Oldi in two cabins, inside of the dining-room, and her female servant (the situation which would naturally occur to any person) in a room adjoining that of her Royal Highness, and having an internal communication with her cabin. Her Royal Highness, however, disapproved of that arrangement. She preferred that which had been her usual practice, to have Bergami, her equerry, in the room adjoining her own; and, with that object, he was removed to the cabin previously occupied by the servant. This fact their Lordships would find in the evidence of Capt. Briggs. The former part of his evidence merely related to his having seen her Royal Highness and her suite embarking on board the Leviathan, and a recapitulation of the names of some of the persons of whom that suite was composed. But in the page to which he had referred, Capt. Briggs described the appropriation of the cabins which he had made, and stated that that disposition was altered by the command of her Royal Highness. Beyond this their Lordships would recollect that it appeared, from the first examination of Capt. Briggs at their bar, that this was an alteration in which Mr. Hownam himself concurred with her Royal Highness; and Capt. Briggs, at a subsequent period, also spoke to part of a conversation he had held

with Mr. Hownam, which that individual, when cross-examined at their Lordships' bar, seemed to have quite forgotten had ever taken place. Why did he remark on this alteration of the cabins so particularly? Because it was a prominent part of that system, of that habit, which pervaded the whole of her Royal Highness's conduct with respect to this case. What occasion was there for placing Bergami adjoining her Royal Highness's cabin in the Leviathan? Would it not have been equally safe for her Royal Highness to have had her female servant immediately adjoining her cabin, and Bergami at a further distance? Was there any apprehension in the mind of her Royal Highness as to anything occurring on board the Leviathan that rendered this alteration necessary? No; but the favored Bergami was selected on this, as on all other occasions, to occupy a room close to that occupied by her Royal Highness; and, though the internal communication between the two cabins was shut up, yet their Lordships would find that the door of Bergami's cabin opened almost immediately opposite to the door of her Royal Highness's room, and afforded that facility, that easy communication, which might be traced all along, between the sleeping apartment of her Royal Highness and that in which Bergami reposed. He knew that on the cross-examination, and the examination of their Lordships, a strict inquiry was made to discover how far Bergami could find his way into the Princess's room without detection. He would not make any comment on that evidence; but he thought that it would be most easy for Bergami to accomplish that purpose, if he had chosen it, without the knowledge of Captain Briggs, or of any other person on board. He knew that Captain Briggs had slept in the dining-room, in a part that was boarded off. But he had stated, that, though he was liable to be awakened at night by individuals coming down for orders from

the quarter-deck, yet a person who wished to go to the room of her Royal Highness might pass by his apartment, without being observed or interrupted, and persons might pass into his room for orders without seeing Bergami. When they considered this part of the case, it was essential to recollect that the alteration affording the facility he had stated was made by the direction of her Royal Highness. Another point to which Captain Briggs deposed was her Royal Highness being in the habit of taking Bergami's arm while walking the deck, which afforded additional proof of the familiarity that subsisted between them. The next important fact—and it was a most important one—to which he would advert, was the circumstance that took place at Catania. A fact was spoken to, by Demont, as having taken place there, which, if true, proved, beyond the possibility of doubt, that an adulterous intercourse had taken place at Catania between her Royal Highness and Bergami. What were the facts which she related? It appeared that, in consequence of some illness which Bergami suffered at Catania, a change of his sleeping apartment took place, and he occupied a room that had been previously occupied by the Countess of Oldi. Between that room and the room occupied by her Royal Highness, there was another sleeping apartment, appropriated to the witness and her sister. It followed, therefore, that the communication between the Princess's room and the chamber to which Bergami was removed was that in which Demont and her sister slept. In consequence of this change the Countess of Oldi removed from the room which she had usually occupied to that in which her Royal Highness slept with the little Victorine. Demont stated that she heard the door of her Royal Highness's room open at night; but she also stated this particular fact, to which he called their Lordships' especial attention, namely, that one morning, having

remained in her room rather later than usual, she saw the door of the room in which Bergami reposed open, and her Royal Highness come out of that room in the dress which she usually wore when in bed, and the pillows on which she commonly reposed under her arm. They were told that Demont was a witness not worthy of credit. Much had been said by his learned friends, and many eloquent dissertations had been made on the weight and credit that ought to be given to the declarations of discarded servants; and still more had been said with respect to the letter written by Demont to her Royal Highness, and that which she had addressed to her sister. He had supposed, from the line of argument which had been taken by his learned friends, that they were so satisfied in their own minds, or affected to be so satisfied, that Demont's evidence was no longer to be relied on; that they deemed it unnecessary to attempt any contradiction of it. How, then, was he astonished, when at the close of his learned friends' case, notwithstanding the display of eloquence which they had bestowed on the character of this chambermaid—notwithstanding Mr. Brougham and Mr. Williams in the first instance, and Mr. Denman and Dr. Lushington afterwards, had endeavored to show that her evidence was not to be credited in the slightest degree—after all the pains they had taken on this point, how was he astonished when he found that his learned friends, feeling, themselves, that they had failed in making the impression they wished—feeling that the ground on which they stood was so weak and untenable—called up their last witness, who was brought over at the very last moment of the case, and examined the night after her arrival, in order to contradict Demont? Yes, a milliner from Morge was produced, to contradict Demont on a collateral fact—a fact which they had already heard from Lieutenant Flynn, on whose evidence he would hereafter comment. So far

did his learned friends doubt the effect of their observations on Demont's evidence, that, as their last resort, at the last moment, when their case was about to be closed, they called this milliner from Morge, that she might depose to a conversation between her and Demont, in April, 1818, in order to destroy her testimony by that contradiction. If he wanted any demonstration that his learned friends felt that her evidence was not shaken by those letters, this circumstance afforded that demonstration. It was pitiable to think that, in an accusation brought against the Queen of England, a paltry intrigue should be introduced to overthrow the evidence of a witness. Not only was this done—not only was private confidence betrayed—but letters were actually intercepted to support the defence. What did these letters amount to? The first letter, from Rimini, contained an expression which satisfied his mind—he knew not whether it also satisfied the minds of their lordships—that Demont saw and observed the intimacy that subsisted between her Royal Highness and Bergami; that they lived together as man and wife; and that they acted conjointly at Pesaro. If their Lordships would look to the conclusion of the letter, they would find a passage, which he could not help thinking proved most strongly what Demont really felt with respect to the connection, the familiarity, and the intimate intercourse that subsisted between them. The passage was this—"I cannot sufficiently thank her Royal Highness and the Baron for their kindness in sending Ferdinand to accompany me; he has paid me all the attention and taken all the care of me imaginable. I know not how to acknowledge so many benefits." Here were the Baron and the Queen united together in the same sentence, as both concurring in this act of kindness to Demont. He must say that this accidental expression, coupling the Baron with her Royal Highness, spoke to his mind demon-

stratively what had passed in the mind of Demont, and what was the result of her observation on that which had occurred in her presence. But they were told that the other letter, written to her sister, under the circumstances which Demont had described, clearly marked the hypocrisy of this woman, and rendered her unworthy of belief. Looking to all the circumstances of the case, the interception of letters particularly, he drew a different conclusion. When their Lordships remembered that Demont's sister was still in the employ of her Royal Highness—when they recollected that that sister was dependant on her Royal Highness's bounty, and were apprised of the circumstances that letters to her were intercepted—was it not extremely necessary for Demont to take care that nothing should appear in her letters tending to show that a suspicion existed in her mind as to her Royal Highness's conduct? He must here more particularly turn their Lordships' attention to that part of Mademoiselle Demont's evidence, wherein she answered to the several questions which were put to her in the course of her cross-examination by his learned friends, who had tortured her with such inquiries as whether she had ever gone by the name of the Countess Columbier; and whether she bore that name on her arrival in London. Yet, after conducting that cross-examination in this manner, his learned friends had not called one witness to support that case, which it must have been their object to make out. For what purpose did they adopt that mode of cross-examination, but to elicit from Demont certain facts which might contradict her former testimony, and which they must have proposed to prove by witnesses.

Now, such a case they had not proved. The sole witness called to the bar, for the purpose of that contradiction, was the woman Martigni, who was to depose to a conversation occurring three or four years ago, between herself and Demont, but of which they had

heard little or nothing till that moment. The learned gentleman then adverted to the occurrences at Ephesus, as detailed in the evidence of Majocchi, to which a supposed contradiction had been inferred in the evidence of Hownam. After the affair of Ephesus, he was not aware that any thing particular occurred until they arrived at Aum, after they had gone from St. Jean d'Acre to Jerusalem. Now, let their Lordships mark this part of the case, which was not only not contradicted, but in their argument and upon their evidence, admitted, he thought, by his learned friends. If the fact there deposed to was true, he said, it struck his mind as conclusive evidence of the Princess's guilt. What was the case? They travelled by night and slept by day. Her Royal Highness, after the fatigues of her journey, reposed in a tent erected for her. Outside that tent was another tent, and between them two persons were constantly placed to protect the Queen. They had heard a great deal of the necessity there was of having persons to protect her; but on this occasion, it should seem, that not satisfied with the protection of Majocchi and Carlino (Bergami's nephew), Bergami himself reposed under the same tent with the Princess, although it must be evident that of necessity such an arrangement must have exposed her Royal Highness to those indelicacies which were inseparable from travelling and long journeys. Good God! he had heard it said, "Oh, but she was much fatigued; she came in and reposed on a sofa, without taking off her clothes." Why, if she were so fatigued, as probably she was, would not a female attendant have been the best possible person to attend her? Would not the Countess of Oldi, or Demont, have been properly selected for such a purpose? She wanted no more attendants; she had those to spare; more then were outside of the tent. But at this time of day they were to be told that no suspicion of impropriety ought to be excited. Yet had they come to this day, in the

19th century, and it was gravely argued out of doors, that impropriety and guilt were not to be inferred in such a situation, because there was a possibility that there might be no intercourse. Their Lordships must repeal those bills of divorce which in so many instances they had passed. They must send forth to the world, hereafter, this doctrine, that there is no cause of suspicion or guilt in such a circumstance; and they must proclaim to the world, that, for the future, this might be done with impunity; that princesses might sleep with their menial servants under the same tent, without impropriety or guilt, because they were not undressed. Did his learned friends know (and if they did not, he could tell them,) that in those countries it was not the custom to repose without their clothes. The learned gentleman proceeded to show, that it would have been as easy, and infinitely more proper, for the Countess Oldi, Demont, or Mariette, to have slept under the tent. This arrangement would not have subjected her to those indelicacies, which he need not more nearly allude to, but which must take place under such circumstances. Not a single person of any description was called to contradict the Princess's sleeping under the tent with Bergami, and that sleeping, let their Lordships recollect, when no possible reason but one could be assigned for its occurrence. He should therefore say, that in this case there was more than sufficient to establish the charge of adultery: if there were not such proof, in this case, the House had done more than injustice in admitting as proof that which they had often deemed proof in others. That fact of sleeping in the tent, if taken alone, was enough, but it became indisputably conclusive when coupled with so many other circumstances which led to the same inference. Good God! unless this were proof of adultery, how else was it to be proved? His learned friends had said, where was the proof of any thing but their sleeping under the same tent, as if it were nothing

to talk of a man or woman sleeping under the same tent, unless they were actually proved to have slept undressed on the same bed. Was it to go forth to the females of this kingdom that such a thing could innocently take place; if so, then there was an end to all delicacy of female feeling, there was an end to the fine moral sentiment of the females of this empire. He must again repeat, that if enough to establish the fact of adultery were not already proved in this case, then there was no hope of ever being able to establish that fact in another. If, then, the Aube case stood on this ground, what could be said of the conduct on board the polacre, which, though capable, if it had not occurred, of the fullest disproof, was yet by his learned friend, left wholly uncontradicted? What were the facts? Did not her Royal Highness and Bergami sleep under the same tent on the deck of the polacre from Jaffa to Capodanza, and for the space of nearly two months? The reason assigned for this was, forsooth, that some horses were below, that their noise, and the heat of the weather, compelled her Royal Highness to repose under a tent on the deck. But his learned friend (Mr. Denman) said that this did not deserve the name of a tent, that it was only the ship's awning—a sort of covering, loosely let down over her Royal Highness, and easily opened by anybody on deck. What said their own witness, Lieutenant Flynn? —that it was fastened down to the ship's ring-bolt, on the deck. Majocchi, at page 90, and Gargiulo and Paturzo, at pages 121 and 131, both prove how the tent stood; they prove all the particulars, not one of which stands contradicted by a tittle of evidence. So closely were his learned friends pressed, that when they found it was in vain to contradict this fact, they were compelled to attack the testimony of the captain and mate, on account of the remuneration given to them for coming to this country to give their evidence in the case. This remuneration was not larger than that usually given to

foreign witnesses; in general, these persons required for their expenses large sums, and they were in the habit of receiving them. As proof of this he need only refer to his learned friend's own female witness from Morge, in Switzerland; she admitted that she had received 70*l.* at the outset, and had had 100*l.* deposited at her banker's, and she hinted that she expected further remuneration. The House would doubtless recollect that the captain and mate, while absent, were perhaps liable to the loss of many important advantages arising from the trade of their ship, which, if at home, they must certainly receive. Why fly to the remuneration they received, instead of contradicting their evidence, which, if it could be contradicted, might have been so met at every step? They indeed proved not only the night scenes in the tent, but what was done there by day also. Both the captain and mate proved that while Bergami was reposing under the tent, and her Majesty hanging over him, Schiavini ordered the tent to be let down: this was done in broad day, and by the order of Schiavini. Where was Schiavini to contradict this? He was now living at Brandenburgh-house with her Majesty—he had been sent over to collect witnesses. Was he too without nerves for cross-examination, as Captain Flynn and the Ladies Oldi and Marietti were said to be? Was not Schiavini to be found with nerve enough to contradict the fact, that by his order the tent had been let down, under the circumstances he had named? Surely they might have produced him; he had as yet done nothing to forfeit their confidence, he had not corresponded with Baron Ompteda about forged keys and picking locks, and the detection of private correspondence. He is the person who is charged with letting down the tent. Now, when her Majesty's innocence was to be established as clear as the noon-day, where she took an attitude of challenging all inquiry; yet here was a most material and conclusive witness, were

she innocent, and that witness, though on the spot, his learned friends did not venture to call. Count Vassali was indeed called to contradict the occurrence on the journey to Sinigaglia. There was confidence enough in the production of Vassali, but why not have ventured upon Schiavini, when his name was connected with so vital a fact? Why not also produce Carlino to contradict the fact that Bergami took the candle every night within the tent, and then put it out himself? It was ridiculous to talk of this sleeping of the Princess with Bergami for five weeks under the tent, and yet to say, that because the parties were not undressed, that therefore the innocence of the Princess remained clear. But what reason, he would again ask, for this indulgence to Bergami? Lieutenant Hownam, indeed, did continue to find some reason for Bergami's sleeping under the tent; he said a seaman would have been better than a landsman to give assistance on such occasions. Schiavini, who was no seaman, he said, would not do, and yet Bergami, it appeared, would, though there was no proof he had ever in his life been at sea before. There might have been a guard to protect the tent of her Royal Highness; there might have been every protection her apprehensions required for female safety; Lieutenant Flynn always slept on deck, near the helm; but no, nothing would do except Bergami's sleeping under the same tent, under circumstances which put an end to the feeling of female delicacy. But Bergami slept on a sofa, which sofa was three feet distant from her Royal Highness's bed, and there was no proof of either of the parties being undressed, for the Princess was seen early in the morning dressed, and Bergami in his gown:—"O, then," exclaimed his learned friends, "what proof was there of criminality in the Princess's conduct?" If, he would answer, these facts, which put an end to all sense of female delicacy, did not furnish proof, then he knew not what was proof in such a case. The polacre

scene was established beyond all doubt; then did it not give sanction, by its strong confirmation of the conduct of the parties, to the other scenes in which they were represented to have participated? But there was one event upon which his learned friends, notwithstanding the minuteness of their details, were altogether silent, namely, the celebration on board the ship of the Saint's Day whose name Bergami bore. They said not one word of the regaling the crew on that day, nor of the shouts of "Long live St. Bartholomew! Long live the Princess! Long live the Cavalier!" Did not this celebration of Bergami show the estimation in which Bergami was held by his royal mistress? Where was the instance of such an act towards any of the other servants, and did it not in Bergami's case show the sentiments entertained for him by the Princess? All this could not have been omitted by his learned friends by accident; no, but they knew the fact could not be contradicted, nor the inference to which such a fact, coupled with the other circumstances, necessarily led. Then there was the bath scene. Lieutenant Hownam was asked, "Did the Princess bathe on board?—Yes, she did." The bath is also carried, not into her dining-room, but into that cabin in which she slept.

Lieut. Flynn had been called to support the case, and to show that the tub could not have been placed in the cabin. It was hardly necessary to comment on the testimony of that unfortunate officer, upon whom the House would probably be of opinion that no reliance could be placed.

"Yet what inference," exclaimed Mr. Denman, "could be drawn from this young man's taking a paper from his pocket to assist his memory? and what did it signify, if, on cross-examination, he swore three different ways regarding the hand-writing of that paper? In fact, Lieutenant Flynn had deposed in the first instance that it was the hand-writing of Pasconani; but, by a fortunate

accident, the counsel for the bill happened to have some letters of Schiavini in their possession, and on comparing the two, it was obvious that the paper was the hand-writing of that person. Accordingly the Solicitor-General had put it to Lieutenant Flynn whether it was not so. It came like a thunderbolt upon the witness, who never dreamt that the fact would be discovered. Yet this, Mr. Denman had contended, was a matter of no importance, forgetting the eloquent conclusion of Mr. Brougham's speech, which must be well remembered by the House, in which he beautifully dilated on the accidental detection of guilt and perjury by trifling circumstances, referring even to Holy Writ in proof of his theory. However, to Lieutenant Flynn this argument was not to apply; but still it was an accidental detection, and on account of it the Queen's counsel were afraid to produce any other witnesses. What fell from Mr. Brougham had reference to this statement of Sacchi regarding the tumult at Dover, a fact much more immaterial than the hand-writing of Schiavini; yet upon that fact the whole evidence, the whole of Sacchi, was to be destroyed. Lieutenant Flynn, however, was a witness on the other side, and accordingly he was an English sailor, and a British Lieutenant. He was so, and for this reason his honor ought to be as dear to him as his life; and for this reason the observation of Mr. Brougham was not to be applied to him, but to every Italian witness called in proof of the preamble. Lieutenant Flynn had been asked over and over again as to the hand-writing of the paper, and he could not have entertained any doubt on the point; whether, therefore, his contradiction was wilful or by mistake, the House could give him no credence. Answers had been extorted from him by some of their Lordships, which showed that he deserved no reliance, particularly with regard to the situation of the binnacle, and to the light which was thrown into the tent. All that he stated on this subject was too

long to be recapitulated, and it must be fresh in the recollection of the House. With regard to the light in the binnacle, he had been contradicted by Lieutenant Hownam, who found the tent quite dark, and so inclosed that it could not be opened but on the inside. This was also sworn to by Gargiulo and Paturzo, who stated that it was shut by Bergami in such a way as to prevent all observation. If the fact, that Bergami and the Princess were in the tent, wanted confirmation, it was amply supplied by the proof, that off the coast of Candia, when the waves came over the tent, the Princess was conducted from it below by Bergami. Mr. Hownam, indeed, said that it was Lieutenant Flynn; but this was incredible, because in the gale his attention would necessarily be directed to the management of the ship. It was, therefore, to be concluded, with the witnesses for the bill, that Bergami and the Princess descended the ladder together. To return to the bath—if Demont and Majocchi were to be believed, the Princess took the bath below; but this point was quite immaterial, the main fact being that Bergami was present at the time, and whether in the dining or sleeping cabin made no difference. He (the Attorney-General) knew not whether any woman would have endured the sight of any man on such an occasion; but sure he was, that she would endure the sight of no man by whom her last favors had not been enjoyed. No woman of feeling or delicacy would have permitted it; but it was certain that Bergami was present when the Princess took the bath. The circumstances were too gross to be detailed; and, supposing it to be true, it proved the whole case. If it were false, it might have been contradicted by the Countess Oldi and Mariette; but they had not been called, and the fact rested on the concurrent testimony of Gargiulo, Paturzo, Demont, and Majocchi. The only witness who made it doubtful whether it took place in the dining cabin was Lieutenant Hownam, but he only

stated his opinion. While upon this part of the case, so confirmed and strengthened, he wished to direct the attention of the House to the circumstances attending Majocchi's evidence. He had heard with some surprise that Majocchi and Demont were not to be credited. The position was, that Majocchi, to certain questions, had replied that he did not recollect particular facts; but, if this rule were applied to the testimony against the bill, it might be said of almost every witness that had been called. It would be remembered that Majocchi was examined once, and that he was called up a second time on the receipt of certain information, which so opportunely and unexpectedly had arrived in the hands of the Queen's counsel during all stages of the proceeding. It was some intelligence from Gloucester, not obtained, however, until Gargiulo and Paturzo had been examined: then the case pressed, and the other side felt it necessary to make a diversion. Signor *Non mi Ricordo* was, therefore, brought up to have his testimony destroyed, and the House was amused, hour after hour, regarding a visit to Gloucester, Majocchi's journey in a stage-coach, and conversations with this man and the other. His memory was *tortured* on the subject; for, though Mr. Brougham had applied that word to the cross-examinations of the Solicitor-General, it was equally applicable to his own. He supposed the other side would not confess this: they would say that it was quite a pleasure to be cross-examined by Mr. Brougham, and that the witnesses felt nothing but delight while they were in his hands. Majocchi did not seem to be of this opinion; for, when he was recalled to the bar, he certainly looked a little alarmed.—[The Attorney-General then continued his argument in support of the prosecution, but as there were not any new points elicited, we shall not follow him through all his various remarks.—He continued until four o'clock, when the House adjourned.]

OCTOBER 28.

The *Attorney-General*, resuming his speech, went through all the circumstances of the evidence in chronological order. His main argument on most of the disputed points was, that the other side might have called other witnesses to speak to the occurrences in question, and that their not having called them was a strong presumption against her Majesty. With regard to the scene at Carlsruhe, the learned Counsel met the statement of Mr. Denman by the following attempt to confute it :—The only way in which his learned friends attempted to account for that which was sworn to by Barbara Kress, at Carlsruhe, was by attempting to account for all the time that her Royal Highness was there ; and for this purpose the notable Count Vassali was called. He could recollect every day, and how it was occupied at Carlsruhe, and there her Royal Highness dined thrice at the Margravine's, and all the other days at the Grand Duke's. The learned Counsel begged their Lordships' most serious attention to this evidence, for it was flatly contradicted by Lieutenant Hownam, who stated that her Royal Highness only dined one day at the Margravine's, and every other day at the Grand Duke's. And then when Count Vassali was examined as to how her Royal Highness had occupied herself, and where she dined at other places which she subsequently visited, his memory failed him, and he was incapable of accounting for any other time but that consumed at Carlsruhe. The following is the manner in which the Attorney-General treats the evidence regarding Trieste :—In the course of her journey, her Royal Highness came to Trieste. Here his learned friends thought that they had secured a great triumph—but how? The fact which had been sworn to they did not attempt to refute; they only endeavored to pro-

duce a contradiction as to the time her Royal Highness stopped at Trieste. First, there was the evidence of Mr. Hownam, who stated that her Royal Highness arrived on one day, and went away on the next; and, to corroborate himself on this point, Mr. Hownam had produced a letter dated on the 18th of April. But did it follow that, because this letter was dated on the 18th, it was written on the 18th, and on no other day? Vassali, too, swears that her Royal Highness remained only a day and a half; Vassali, of whose excellent memory the affair at Carlsruhe affords such memorable proof! Then, to prop up the case, the Counsel for her Majesty (Mr. Brougham), with that adroitness for which he had been so remarkable throughout the whole proceeding, had produced a foreign newspaper, and before he knew whether it could be received in evidence or not—nay, knowing well that it could not be received, had read an extract from it, which went to confirm the statements of Lieutenant Hownam and Vassali. Was it necessary, observed the learned Counsel, to offer any comment upon such a piece of no-evidence as this?—Why had his learned friend had recourse to it, if he had relied so firmly as he pretended on the excellent memories of Vassali and Hownam? But why, instead of taking any pains at all about a matter of such comparative unimportance as the length of time her Royal Highness stopped at Trieste—why had they not rather produced witnesses to contradict Cuchi, if he could be contradicted, as to the situation of the rooms in the inn, the doors, and the hangings? The Queen had doubtless had her emissaries at Trieste, as well as elsewhere; and if the facts that Cuchi deposed to were not true, there could have been no difficulty in procuring witnesses to refute them. The Attorney-General said, he would now call their Lordships' recollection to the pledge which had been given by his learned friend, Mr. Brougham; and, that he might not mistake it, he would now

read that gentleman's own words—"As to Mariette Brom, the Queen has hitherto never known any thing to her prejudice, and she will, therefore, be presented to your Lordships." The fact, however, was, that his learned friends dared not to call her. Such was the manner in which his learned friend had entered his pledge that Mariette should be produced at their Lordships' bar. How that pledge had been kept, the House had seen; and let it now examine the different and discordant reasons assigned for its violation by the Counsel on the opposite side. He (the Attorney-General) would observe upon this point, that he had foreseen what was coming from the very manner of Mr. Brougham. He foresaw that his learned friend (with great ingenuity certainly) was diverting their Lordships' attention from the real state of this case, after the close of Lieutenant Hownam's evidence; and their Lordships could not but recollect that, after the departure of Rastelli, and the production of Baron d'Ende's letter, Mr. Brougham had announced that they would withdraw from that part of their case, and that they would not call many more witnesses.

Then followed the speeches of Mr. Denman and of Docter Lushington; and the reasons they had assigned were certainly the most extraordinary which had ever been addressed to the House at that bar for the non-production of witnesses. Their hypothesis was, that the testimony produced in support of the Bill was false; that the whole proceeding was founded upon a slanderous conspiracy; that the witnesses in favor of it were suborned, and not to be credited; and in contradiction to them, they said, "We will produce witnesses who shall demonstrate their falsehood." But, unfortunately for them, Lieutenant Flynn had flinched under his cross-examination; he had shrunk from the proof; he could not stand that which was the test of truth, and therefore, too, it was that Mariette and the other witnesses

were not to be produced at their Lordships' bar. They were not to be produced, because his learned friends were alarmed and apprehensive, lest, although those witnessses were to be sworn to speak the truth, and nothing but the truth, they might very likely let slip something in the course of examination unfavorable to the Queen's case. But if a witness had the truth in him, what had he to fear? All the arts of the advocate could not extort from him that which was false, for he came armed in the armor of truth; and all the terrors of a cross-examination vanished before the consciousness of deposing to the truth, and nothing but the truth. But the truth, and nothing else would not do from those witnesses; for, after Lieutenant Hownam's examination, his learned friends had felt that they who deposed in that way, so far from aiding, were rather injuring their case; but so much for the excuses given by them, to account for their not producing such witnesses. Another excuse, however, still more extraordinary, was started the preceding day (Friday), in the middle of his (the Attorney-General's) reply; and one which, he presumed, had never before been heard of. It was, that a communication had been just made to the Queen's Attorney-General; upon which he directly founded an application, and which he thought proper to adduce as a reason for, and confirmation of, his conduct relative to Mariette. If Mariette had not been produced by his learned friends under this sort of apprehension that she would not speak the truth, let them at least call those others to whom the same fear could not, and the same doubts ought not to attach. Here he would apologize to their Lordships for the frequency with which he had been compelled to advert to the mention of Bergami. He now mentioned that name, only for the purpose of making one observation, which was upon a remark of Mr. Denman's, in answer to the inquiry why Bergami himself had not been called.

Mr. Denman, on that occasion, thought that no instance was ever heard of, in which a person charged with having committed adultery had been cited to give his evidence in a proceeding instituted for the purpose of investigating or trying the charge. Such a case, however, was that of Campbell, in 1799, which was a divorce case, in which Major Hook, the supposed adulterer, was examined at their Lordships' bar in support of the female. But not only was Bergami not produced as a witness at the bar, he had not even ventured to accompany to this country that female whom he was represented to have so faithfully served; and, after journeying with her in all her travels, he was not here now to assist his mistress in the hour he was most wanted. But all the family of Bergami had been dismissed also; and not dismissed because of their number, it was to be presumed, because all the family of Bergami had been received. The change was curious; but he (the Attorney-General) would ask, why would all this have occurred if her Royal Highness were really innocent? If there was really no impropriety in these attentions—if there was truly nothing in them from which guilt ought to be inferred—if Bergami was indeed this faithful servant which he had been represented to be—why was he not brought to this country? Why did not her Majesty come forward and say, "I have been deserted by my suite; I have been left by all my English servants; but this man has kept to me, faithful and unchanged, in all my difficulties, and has protected me in all my dangers; and for this it is that I have promoted and honored him—I have given him the rank of chamberlain;" for chamberlain it was to be presumed Bergami still was. They had not heard of any other chamberlain, but they had heard of a vice-chamberlain to her Royal Highness. Upon the subject of Bergami's promotion, he would just call their Lordships' recollection as to what had been stated by Mr. Brougham—"Oh!" said he, "you have

been left in happy ignorance of all that has operated on the Princess's mind; that at the time he was hired, the rank of chamberlain was promised him by the Marquis Gizilieghiri. Their Lordships were told that it was to be proved that he was not only honored with the confidence, but had dined at the table of General Pino—a fact which their witness, Colonel Tuille, unfortunately could not recollect. Sicard, so far from saying that any hopes were held out, or any promise made, to Bergami, of the advancement to which he had since arrived, deposed that he was only hired in the situation in which he went to Naples, and the promise amounted to this—that if, on the arrival of her Royal Highness at Naples, there should be a vacancy for a servant in the household, he (Bergami) should have it. But their Lordships had been kept in happy ignorance as to the nature of his services. What was there at Genoa, at Milan, at Naples, to call for all that further favor which was shown him, to allow of his introducing into her Royal Highness's house and service all his relations—Faustina, who, at Genoa, was not known to be his sister; the Countess Oldi, who, at Genoa, was not known by Dr. Holland to be his sister? Why was all this secrecy kept up? Why then, was Louis Bergami to be admitted into her Royal Highness's service? What! her Majesty, who never before let any servant dine with her at her Majesty's table, suddenly permitting not only Bergami, but so many members of his family to dine there! And were not these grounds of inference and suspicion? He (the Attorney-General) said that they were the strongest grounds; and, when coupled with the other facts deposed in evidence, must furnish in their Lordships' minds a clue, by which they might trace the true motives of the Princess's conduct. But if there were other reasons for not producing Bergami, why had not the Countess Oldi been produced? It was most extraordinary that, throughout the whole course of the evidence offered on

the other side, there was only one female witness called, and she a witness of the conduct of her Royal Highness for 24 days only. Lady Charlotte Lindsay was produced. Why, if she was produced as the dame d'honneur who was in that capacity for so short a time, why was not that person called, who had also been with her Royal Highness as dame d'honneur from the period of her English suite's quitting her at Milan up to her arrival in this country? Was it meant to be said that that lady of honor was not to accompany her? Was her Royal Highness to be left without one? She travelled up, then, to St. Omer's, without one female attendant in the capacity of lady of honor. The Countess Oldi, of all persons, was the one whom their Lordships might have expected to be produced on the other side. Of the Countess Oldi there could be no suspicion. She was of a family against whom there could be no suspicion! She it was who Mr. Williams had said should be called to contradict the fact charged to have occurred in the journey from Sinigaglia. But were these all who might have been placed at the bar? Why was not Austin produced? Where was he? He was now 19: his name was among those of the witnesses in attendance. He could have contradicted many parts of the testimony on the other side. Where was Hieronimus?—At Brandenburgh-house, but by no means forthcoming. Where was Schiavini?—He was also in the country. But though he performed many important acts about the tent, he was yet not produced. Where was Ludovico Bergami, who waited at table, his brother being a courier, at Genoa? Why was not he produced? Where was Cameron? Where was Lini, the Jew harper? He had now named about eight persons; but there was Carlini too, who was on board the polacre; why was not he produced, and the whole family indeed of the Bergami's—Faustina, the mother; Rappi, Bernardo, Francesco? Not one of these had been produced, although his learned friends

had undertaken to contradict every part of the case for the prosecution. They called, indeed, Lieutenants Flynn and Hownam, and then Vassali; but either they have such weak nerves, or such treacherous memories, that his learned friends thought their other witnesses must not be produced at their Lordships' bar, and therefore they had been withheld. Now this spoke more in condemnation of her Royal Highness's conduct than any thing else, after all the absurd, the futile, the unsatisfactory reasons which had been adduced for the omission of witnesses, and which applied only to the case of Mariette, and not to any one else. The learned gentleman then apologized to their Lordships for trespassing so long upon their indulgence, when he was aware that their attention was exhausted by their previous continued application to the same subject. His duty had been an anxious one. It had been to bring before their Lordships the whole evidence of this case. He had strictly confined himself to that duty; and he trusted that they would acquit him, in the course of these his observations, of having made any unnecessary appeals, either to their feelings or their passions upon this case. He had done that which was his duty; he brought the evidence before them to the best of his ability, and commented, as well as he could, upon that evidence which had been offered. This was his duty, but it seemed that there was another thing, and another course which an advocate for an accused should adopt; and this had just been discovered by Mr. Brougham. His learned friend had argued that an advocate for an accused was to defend his client at all events; and separating the duty of an advocate from that of an honest and independent citizen, was to go on regardless of the dangers he incurred, and reckless of the consequences even to his country. But what was the duty imposed upon his learned friends? To protect the interests of their client, to guard the innocence of

the Queen, and to establish it against the charges by which it was impugned. This they had attempted to do. But had they confined themselves to that duty? No; for the counsel had been permitted, for the first time at their Lordships' bar, to launch into invectives against the constituted authorities of the realm.

Modern precedents were to be sought for, to justify the course which they had been allowed to adopt; and the annals of corrupt Rome were to be ransacked for examples odious enough to serve the purposes of their denunciation. The cruelest of tyrants, the most detested of all antiquity, was to be brought forward as a supposed parallel to the King. The throne itself was not spared; nor was this all—their Lordships were not spared. No one was to be exempted from the extraordinary observations which had fallen from his learned friends. Their Lordships would—he would not say pardon them; but perhaps some excuse was to be alleged for them in their trying situation. If the Queen, however, was innocent, her innocence was to be established in some other way. If she was innocent, it was not invective and virulence which would prove her so. Innocence stood secure, always in its own strength; it wanted no aid from vindictive aspersions. Whatever had been the eloquence of those invectives, during the time that the question of that innocence was to be examined, he could not help thinking that the path of duty was to be preferred by his learned friends. But it seemed, by the conclusion of Mr. Brougham's address to their Lordships, that the public had already passed their verdict upon this case. The public had passed no verdict. There was, indeed, a part of the community who had attempted to do so: who had, by the most base, the most insidious means, endeavored to deceive the best and most deserving part of the nation—who had endeavored to wrong and to betray them. These, while they had the cause of the Queen in their mouths, had another cause in their hearts.

He would not say that he believed it, but it must pain every one to believe, that any countenance could be given to such a party by the illustrious person accused. Now, not only had all this been done out of doors, but, their Lordships had been told, in magnificent language, and in a manner he had rarely seen surpassed, and which, at the time, had no doubt produced a very considerable effect—that their judgment, if it went to degrade and dethrone the Queen, would be the last and only one they could pass, which would fail in its object, and be productive of endless ill consequences: and their Lordships were told, and attempted to be persuaded, that, as the only means of preserving the honor of the crown, and securing the tranquillity of the country, they were called upon—at all hazards, and whatever might be the contrary bias of their own opinions—to pronounce a verdict of acquittal; because, forsooth, such a verdict the state of the whole country demanded—in the opinion of his learned friends. God forbid that such a topic should ever preserve any weight with their Lordships: that any consideration should sway them from their duty; that they should desert the persons of high honor and character, who were interested in this case, or the exercise of that discretion which had hitherto commanded the respect and concurrence of the country.

"The throne," concluded the learned gentleman, "will be best protected, and the altar best defended, by a judgment passed by your Lordships according to evidence, the evidence which has now been offered to you. If that conclusion, my Lords, be what I have endeavored to show, that the nature and amount of the evidence go to establish, and which, I think, it inevitably will be, a verdict of guilt, I am sure your Lordships will pronounce it with confidence; that it will be satisfactory to your own consciences, and, sooner or later, that it will be satisfactory to the whole country."

The Solicitor-General declared his intention, in consideration of the elaborate address of his learned colleagues, to discharge from his view, sedulously and attentively, every part of the case upon which there was any conflicting evidence, and to comment only on facts that were either not disputed or feebly contradicted on the other side. There was one feature of the case which seemed to him to lead directly to the conclusion of the inquiry—he meant the elevation of Bergami. That person was hired as a courier on the journey from Rome to Naples; yet in a few months afterwards he became Chamberlain or Equerry, a Knight of Malta (a very high distinction), a Sicilian Baron, a Knight of the Holy Sepulchre, and owner of a considerable estate in the neighborhood of Milan. His learned friends had endeavored to explain these circumstances; but let their Lordships see how they failed. Mr. Brougham had stated, that Bergami was born a gentleman, but was reduced in circumstances by the events of the French Revolution, and sold his estates to pay off his father's debts. If these assertions were true, they might have been proved in evidence, but that had not been done. His learned friends had indeed called Colonel Teuille, who said that Bergami held a rank, equivalent to that of sergeant, in the French army, and that he was the private but familiar servant of General Pino. It was uncontradicted in evidence that he waited daily at the table of General Pino, and received three livres a day for wages. Still, said his learned friends, Bergami had the manners of a gentleman; and on this point Sicard had been called, who said that he was not quite so chatty as the Italians in general, but he (Sicard) did not consider him particularly superior to his situation as courier. Lord Guildford also stated, that, when he dined with Bergami, it did not strike him that he was superior to his former situation. According to Sir W. Gell, indeed, Bergami's manners were more respectful

than was necessary; for when Sir William saw him in his character of Chamberlain he would not sit down in his presence, and would have lighted him down stairs, if that had been permitted; yet upon passing hastily up the stairs, it seemed he recognized his old fellow-servant, Whitcombe: he pressed his hand as he passed with an affectionate recollection. In fact, the most that appeared by the witnesses in defence in the way of accounting for Bergami's sudden elevation was "his respectful obedience to her Royal Highness." His learned friends had pressed Mr. Craven very much for an answer that would suit them better than merely that Bergami behaved well. Again, as to the alleged promise of promotion, Mr. K. Craven was asked over and over again, "Was there not any thing said about promotion?" The best answer was, "The Marquis Gizilighieri wished that, when the Princess stopped, Bergami might be kept in the service, as a servant out of livery." Under these circumstances, their Lordships could not shut their eyes to the fact, that there were no services performed on which any colorable pretext for advancement could be founded. His learned friends, whose copious power of classical illustration was so elegantly shown throughout their speeches, must remember the lines put by a dramatic author into the mouth of a Roman Empress:—"Threadbare Chastity is poor in the advancement of her creature—Wantonness magnificent."

There was no reason whatever for doubting that her Royal Highness might have had suitable English attendants, if she thought proper. Did his learned friends show that a single individual had been applied to? Lady Charlotte Lindsay was then near the Princess; Lady Glenbervie was at the time at Genoa. Her Royal Highness, however, engaged in her service the Countess Oldi. Now her Royal Highness could speak so little Italian, that she was obliged to have Bergami with her to communicate her directions to workmen; and the

Countess Oldi did not understand a word of French! They had heard a good deal respecting the manners of this lady. Sir Wm. Gell thought her rather a good-looking modest lady. The Earl of Guildford sat next her at table; she was perhaps rather vulgar, but not particularly so. It was also remarkable that great care was taken that she was not to be known as the sister of Bergami. Demont, Lieut. Hownam, and Dr. Holland, were for a long time ignorant of that connection. None of these facts taken singly established the charge, but taken all together they confirmed every part of it. Then there was the fact of the constant contiguity of the bed-rooms of the Princess and Bergami. His learned friends had argued the necessity of the Princess being protected against any sudden danger. Just so was the protection given by *Sir Henry Hornby* to the lady in one of Foote's farces, in the dialogue between *O'Donovan*, the Irish chairman, and *Mrs. Minnikin* :—

"*O'Donovan.*—My Lord was obliged to go about his affairs into the north for a moment, and left his disconsolate lady behind him in London.

"*Mrs. Minnikin.*—Poor gentlewoman!

"*O'Donovan.*—Upon which his friend, Sir Henry, used to go and stay there all the day to amuse and divert her.

"*Mrs. Minnikin.*—How good-natured that was in Sir Henry!

"*O'Donovan.*—Nay, he carried his friendship much further than that; for my lady, as there were many highwaymen and footpads about, was afraid that some of them would break into the house, and so desired Sir Henry to lie there every night.

"*Mrs. Minnikin.*—Good soul! and he did, I dare say." *(A laugh.)*

He should next advert to the polacre scene. It was indisputable, from the testimony of a number of witnesses, that the parties, unaccompanied by a third person, slept under the tent during the voyage; that Bergami used to hand out the light, when they had retired. The wit-

nesses who spoke to this fact remained uncontradicted. The evidence of Lieutenants Flynn and Hownam, for the defence, was contradictory. Flynn said he slept on deck almost the whole of the return voyage, except one night. Lieutenant Hownam swore that Flynn only slept on deck occasionally. Let their Lordships observe the motives which operated on the minds of these two gentlemen in their accounts. Lieut. Flynn, by stating that he was constantly on deck, wished it to be inferred that nothing improper could have taken place in the tent. The object of Lieutenant Hownam's evidence was to show, that as Flynn was only occasionally on deck, it would be the more necessary that Bergami should be there. Mr. Flynn also stated that he did not know where Bergami slept. Was that credible? Lieut. Hownam, however, believed that Bergami slept in the tent; and, in addition to his positive evidence, there was the negative evidence of the Countess Oldi, Schiavini, Austin, Hieronimus, Mariette, Cameron, and others, who might have been called to contradict the fact, but his learned friends had not dared to call them. But it had been asked, if Bergami had slept under the tent, what inference could be drawn from it? The tent was liable to the access of several of the suite, and, on one occasion, Lieut. Flynn went and lifted it up at the side to speak to her Majesty. Now, against that point the evidence of Gargiulo was conclusive, for he swore that it was fastened down all round, and that there were pins to fasten it. Mr. Hownam said it might be opened on the side, and Flynn said he lifted it up. Did he, however, ever attempt to lift it up, except when he was called by her Royal Highness? Oh, but there were hatches! and persons might come up from below. Yes, but what said Lieut. Hownam upon that subject? He stated that one night he went up through the hatches, but finding the tent closed, he instantly withdrew; and yet it was maintained that the parties in the tent were

liable to interruption: but who swore that the hatches were left open? That, at best, was a point in doubt; and yet, if they were so, the parties never supposed that any one unbidden would dare intrude upon their privacy. He now begged to direct the attention of their Lordships to another fact of more importance. Gargiulo swore that on one occasion he saw her Royal Highness sitting in Bergami's lap, on a gun on deck; and Paturzo swore it also, and that he saw her Royal Highness sitting with him (Bergami) on a bench, his arm supporting her back. To this might be contrasted the negative evidence of Lieutenants Hownam and Flynn; but there was another fact sworn to by Gargiulo and Paturzo, to which Count Schiavini was said to have been present, and yet he was not called to contradict it. What was the natural inference to be drawn from this circumstance, but that those witnesses were withheld from a fear of what they might be able to prove? Now, then, without adverting to the circumstances of the extraordinary rise of Bergami, to the introduction of all his family, except his wife, into the suite of her Royal Highness, it resulted from the evidence, that a number of these indecent familiarities had taken place on several occasions, and that afterwards her Royal Highness slept under a tent for six weeks, side by side with this man. Was not the conclusion of guilt most evident? It was strangely insisted on, as an important point, that the parties were dressed. If such obstructions as these were effectual, what was to become of population? (Laughter.) Formerly it had been said that a hooped and whale-boned petticoat was insufficient.

> "Oft have we known that sevenfold fence to fail,
> Though stiff with hoops and armed with ribs of whale."

This too frequently

> "Gave way and bent beneath a fierce embrace."

And was it credible that the Queen's morning gown had made a stouter resistance? It was said, that it was

absolutely necessary for the Queen's safety, that some protector should sleep in the tent with her. Had they any reason to suspect the crew? No. Would not a person lying in a hammock, within four or five feet of the tent, have been a sufficient protection? Yes, was again the answer of the witness. Was not Capt. Flynn there? No; only occasionally, but he might have been there. Lieutenant Hownam might have been there; Schiavini might have been there; but then he was only a landsman. What was Bergami but a landsman? True, but then he was a "singular-looking, stout-built" man, and might be of more service to her Majesty. (Laughter.) But why had not Bergami himself been called? His evidence would be most important either way; he might trip and betray the cause by his failure, or he might make a strong impression upon the House. There was no good faith on the other side, if, maintaining innocence so stoutly, they did not put this most innocent man to the bar.—Adjourned.

OCTOBER 30.

The Solicitor-General resumed his address. Though he did not intend to go into details, there were one or two facts which he could not pass over. Mr. Craven said, that Bergami walked behind the Princess on the terrace at Naples, as a servant would follow a mistress. Yet Mr. Craven thought it proper to warn her Royal Highness against such appearances. This amounted to a contradiction; for supposing, instead of Bergami, the servant waiting on her Royal Highness had been Sicard or Hieronimus, would Mr. Craven have thought it necessary to make a communication to her Royal Highness on the subject? When Lord Landaff first saw Bergami waiting at table at Naples, he took notice of him because he was pointed out to his Lordship. Were any other servants pointed out to the noble

Lord? Did not that prove there was some understood connection between the Princess and Bergami? Lady Charlotte Lindsay proved, that Bergami always attended the Princess, both in walking and at table; and further, that on the road to Civita Vecchia, he being the courier in attendance, her Royal Highness treated him with such extraordinary condescension, that she handed him the bottle from the carriage; he drank from the neck of the bottle, and returned it to her Royal Highness, who replaced it in the carriage. [At the suggestion of Mr. Dennam, the evidence was read, and it appeared that Lady Lindsay only *believed* that Bergami returned the bottle.] Lady Lindsay admitted too, that she had left the Princess in consequence of reports; and Lady Lindsay was the only female called in defence, to speak to the conduct of her Royal Highness. As for Sir William Gell and Mr. Craven, they were only members of the suite of the Princess, and never attended her in private. Lords Landaff and Glenbervie, and Mr. Mills, were only occasional visitors. But why were not Lady Elizabeth Forbes and Lady Charlotte Campbell called, who had both lived some time with the Princess in Italy? He denied that it was incumbent on the Counsel for the Bill to have called those witnesses. The case was prepared and the witnesses examined before they were directed to appear at the bar in support of it. If after they were engaged in this prosecution, application had been made to the natural witnesses for the defence, what a clamor would have been excited! [The learned Counsel here quoted an observation of Chief-Justice Abbott on Thistlewood's trial, to the effect, that if the statements of the prosecution were not contradicted by witnesses who might have been called to contradict them, that omission on their part must be construed against the defendant.] It would be said, that Lieutenant Hownam was called. "I say, my Lords," said the Solicitor-General, "it im-

ports nothing what Mr. Hownam states respecting the conduct and character of her Royal Highness—he who did not think it degrading to the Princess of Wales to sit down at table with a courier in livery, or, as he called it, 'a splendid uniform.' But two other witnesses are called, Vassali, who had been a soldier in Bonaparte's army, and Oliviera, who had also been a soldier in Bonaparte's army. Better call no witnesses than such to a point of this sort. Better to let her Royal Highness's rank and birth attest her conduct than to descend so low for evidence of her conduct to bring before such an august tribunal as this." The Solicitor-General then proceeded to contend, that the witness Majocchi had been greatly slandered, and unjustly "hunted down by the press of this country." It was true, he admitted, that Majocchi said Bergami dined with the Queen at Genoa, which was not the fact; but it did appear that her Majesty had breakfasted with her suite at Genoa, and so small a mistake could not affect the general credibility of Majocchi. He was indeed diectly contradicted by Carrington respecting Ompteda; but Carrington was an inconsistent and prevaricating witness. He had positively sworn, that he never served on board any ship before he was with the Poictiers; but afterwards he came back to explain that he thought the question alluded to his serving with Sir John Beresford. Was that credible? He had further sworn, that he understood he was to be made a midshipman; but Sir J. Beresford denied that there was ever any intention of promoting him to that rank, he being merely transferred as such to the Thisbe to obtain his discharge. Besides, what was to be thought of a man who had left an honorable situation in life to become the servant of Sir. Wm. Gell? The learned Counsel proceeded to contend that Majocchi's *Non mi ricordo* had been unfairly handled against him, and that the witnesses for the defence had quite as frequently employed more courtly

terms with the same meaning. The learned Counsel then proceeded to recapitulate a variety of indecent facts sworn to by Demont, Majocchi, Galdini, and Galli, which had not been expressly contradicted by the evidence in defence. He also commented on the transactions at Carlsruhe, and maintained that Barbara Kress was a better witness than Count Vassali, who was the Queen's agent, and who could remember where the Princess dined and supped every day at Carlsruhe, but could not give a distinct account of a single day passed at Munich. The Solicitor-General also noticed Mr. Denman's comparison of the treatment of the present Queen of England and that of Octavia by her husband Nero. He denied that the similarity was made out; for Octavia was accused, without the least atom of proof or probability, of adultery with a slave: but she never advanced that slave to honors or slept in the same room with him. But the idea of this comparison was not original to Mr. Denman, who had condescended to make himself the instrument of "Wm. Hone, of Ludgate Hill," by whom a work called "*Nero Vindicated*" was advertised. The Solicitor-General concluded his address by trusting that their Lordships would decide the question with the firmness which became their dignity.

Mr. Brougham applied for permission to put in the letters of Baron Ompteda. It appeared to him that they were admissible in two points of view. In the first place, in an ordinary trial, he was convinced no judge would exclude material and important testimony accidentally coming before the final judgment, open, of course, to the ordeal of cross-examination, and of being rebutted, if possible, by other evidence. If this would be permitted in a tribunal purely judicial, it surely would not be excluded when a legislative proceeding was pending like the present. Mr. Brougham was proceeding to remark on these letters, when

The Attorney-General interrupted him, and protested against this application as the most extraordinary he had ever heard. His learned friend had not said one word of the dates of the letters, or to whom they were addressed.

Mr. Brougham.—O, I have not the least objection to read them to my learned friend.—*(Loud laughter.)*

The Attorney-General resumed, and called upon the House to observe the adroitness of his learned friend, who, when asked respecting the dates and superscription, immediately volunteered to do that against which he (the Attorney-General) was entering his protest—namely, to read the contents of the letters. *(A laugh.)*

Some debate among the Lords followed on the admissibility of the letters. The Duke of Hamilton moved that they should be received, which was opposed by the Ministers, and by Lords Grey and Holland; and negatived on a division by 145 to 16.

Adjourned to Thursday.

NOVEMBER 2.

After some preliminary conversation respecting the mode of voting on this question—

The Lord Chancellor rose from the woolsack, and walking down the Opposition side of the House, took his station at the table just before Lords Grey and Holland, and addressed their Lordships. He professed that nothing but a sense of duty would have overcome his reluctance to speak on this occasion. The learned Lord proceeded to notice the objections to Bills of Pains and Penalties on principle, and contended that it was a mode of proceeding more favorable to the accused than an impeachment. In this particular case, their Lordships were to look at the difficulties which the accused might be supposed to labor under. It had been urged that those who produced the witnesses in support of the Bill had much more facility than the other side. Their Lordships would give such weight to that consideration as

they thought it entitled to. So with regard to the charges against Rastelli, of having suborned witnesses; and so with every other circumstance of suspicion as to the evidence in support of the Bill. (Hear, hear, hear!) If the least doubt remained in their Lordships' minds, it must operate in favor of the defendant. The question which he (Lord Eldon) put to himself on this charge, was this: Laying all doubtful evidence on both sides entirely out of consideration, does the evidence which stands unsuspected in support of the Bill, and uncontradicted by that in defence, sustain the allegation of an adulterous intercourse, or does it not? "I say, my Lords," continued the learned Lord, "if you look at the case in this point of view, that it does appear to me, and I am sorry to say it, that you cannot draw from this evidence any other conclusion than that there has been an adulterous intercourse. In cases where persons are called to speak to a particular fact, other persons being present, and no contradiction is given with respect to that fact (those persons being within the reach of the party whose interest it is to disprove the fact,) then, it appears to me, that the circumstance of these persons not being called, amounts to a tacit admission that the fact as charged is incapable of contradiction. Now, my Lords, give me leave for a moment to lay out of the case all the evidence which has been called in support of this Bill, and travel with me to the polacre. Now, my Lords, who went on board the polacre with her Royal Highness? There was Schiavini, Hieronimus, Bronn, the Countess of Oldi, Carlino, Camera, and Wm. Austin. I think that your Lordships will feel with me, that if we were trying the mere question, whether Bergami and the Princess slept under the same tent, or awning, which ever you please to call it, there could be no doubt on the subject." [The Lord Chancellor further argued this point, to come to the conclusion, founded on the evidence of Gargiulo and Paturzo, and its non-contra-

diction, that Bergami slept under the tent five weeks.] "It is to be sure quite a different consideration, whether from the fact of the sleeping under the tent, your Lordships will be justified in drawing the inference, that the act of adultery had actually taken place. Your Lordships, however, will feel it to be your duty to keep in mind what has been sworn to have taken place at Aun, and you will also bear in recollection the measures taken to secure a contiguity of the bed-chambers of her Royal Highness and Bergami, at almost every place which they visited. You are likewise to bear in mind not only the elevation of Bergami, but the extraordinary elevation of all his family. Your Lordships will not overlook the very important fact of the introduction of the Countess of Oldi to the establishment of the Princess, as a person of quality, without any of the suite being possessed with a knowledge of her being the sister of Bergami. In my mind, it is a strong fact against the accused, that the Countess Oldi was thus placed in the intermediate situation which she was to fill, between the Queen and Bergami, with this caution and concealment. In the evidence of Gargiulo it will be found, that on board the polacre such alterations were made with respect to the cabins, by order of her Royal Highness, that she could see Bergami in his bed when she occupied her own. This testimony has not been disproved. I will now call your attention to the evidence of Mr. Flynn. He states the situations in which the different persons in the suite slept on the passage out; yet he knew nothing, or nearly nothing, of the arrangements made for the voyage home! In the evidence of Hownam, I remark the same backwardness to speak on this subject. If it were necessity that dictated such an arrangement, and that necessity were known, how came those witnesses to have such difficulty in communicating all they knew on this subject to the House? It has been positively sworn that her Royal Highness and

Bergami had been seated on a gun and on a bench on the deck of the polacre, with their arms around each other and kissing, and this has not been contradicted. Permit me to say, unless I have greatly misunderstood the divorce cases that have come before me (but few such cases have been before me in the lower courts, though more than I could have wished,) the adultery has always been inferred when there has been proof that the parties have slept together in the same place for five or six weeks. The circumstances on board the polacre are not to be taken by themselves. Your Lordships will give me leave to call on you to look a little at the case at Aun. Allow what you please for the fatigue of the journey, and for the situation her Royal Highness was placed in at that time, and then I will ask what could possibly induce a person of any pretensions to character, having one tent within another, to have a man to repose with her in the inner tent. She had Theodore Majocchi on one side, and Carlino (who has not been called) on the other. She was therefore perfectly secure from danger, and I will therefore ask what possible occasion could there be for Bergami being taken into the inner tent? Without him she was sufficiently protected, for here there was no tossing of the sea—no heaving of the ship, to make his services necessary. Then, my Lords, as to the character, the merits, and the qualifications of the person raised to such pre-eminence and consideration, how are we to account for such an extraordinary promotion? Sicard told your Lordships that Bergami was engaged as a courier, to go merely to Naples, with a promise of recommendation, if his conduct was approved, but nothing more. Mr. Craven's evidence was, that Bergami was told that he might hope to be promoted, and Sir William Gell, that he might hope to be considerably advanced. But, my Lords, did he remain in that state of humble hope and expectation? I ask your Lordships whether in the

world there was ever such an instance of promotion as this case presents—where the whole family of this man, with one exception, and that his wife, is raised to distinction and affluence? The conclusion to be drawn from such a state of things, I leave your Lordships to judge. You find from the proceedings in support of the Bill, that there are eight or nine witnesses, every one of whom, with reference to the facts to which they deposed, remains uncontradicted; and there is no impeachment of their general character, or their particular conduct, unless you act upon bare suspicion, suggested in argument. But, my Lords, I wish to know why is not Bergami produced?—It is said, he cannot be produced. That I deny. My Lords, you have had cases at your Lordships' bar, where adulterers themselves have been called to prove the adultery. Then, I ask you, what are you not to infer, not only from the absence of every member of this family, and of all other witnesses, to prove innocence, but from the absence of a man who, if he were innocent, has imposed upon him an obligation to which no individual was ever before subjected—an obligation imposed upon him by all the mighty favors he has received—by all the circumstances of benefit he has enjoyed—an obligation, of a nature the most transcendent, to come before your Lordships, as a witness on behalf of his illustrious mistress? There are many circumstances in the case to which I have not alluded, and to which I do not mean to allude. But, referring to the leading features of the case—referring to what occurred at Sinigaglia, at the Villa d'Este, at Trieste, at Carlsruhe, and in Catania, and attending to the evidence of all the witnesses who have been examined in support of these leading-features—attending to the acts of familiarity proved, and not attempted to be denied—attending to the extraordinary promotion of this man, and every member of the family, with one exception—and, lastly, attending to the evidence of what occurred

on board the polacre, I cannot withdraw myself from what appears to me to be my imperative duty, namely, to express my firm belief that an adulterous intercourse has taken place. As to what has passed within these doors, upon this case, I am disposed to say nothing; neither will I take any notice of what has passed out of doors. I was sorry that your Lordships should have heard at your bar, from the mouth of a learned advocate, something like a threat, as to the consequences which might follow the decision of this case in favor of the Bill. (Hear, hear!) Such a threat, I am persuaded, will have no effect upon your Lordships, and whatever may be your decision, you will to the last feel it imperative on you 'to be just and fear not.'"—(Hear, hear!)

Lord Erskine commenced by adverting to the general treatment of the Queen. The first thing done by the present Sovereign on coming to the throne, was, by the advice of Ministers, to strike her Majesty's name out of the Ritual; and yet, in the face of this flagrant injustice, they were talked to about holding the scales of justice even, and not condemning any one unheard. (Loud cheers.) When this monstrous act was committed, he (Lord Erskine) thought at least that Ministers had an irresistible case against her Majesty; but what was his astonishment when the Ministers in the House of Commons, while the Green Bag lay on the table unopened, concurred in a conciliatory and respectful address to her Majesty, declaring that the proceedings against her would be "derogatory from the dignity of the Crown and injurious to the interests of the empire!" (Loud cheers.) The noble Lord then adverted to the evidence as to what occurred on board the polacre—to the sleeping under the awning or tent. When first the parties went on board, there was an arrangement of the beds, which was, on all hands, considered unobjectionable; afterwards that was partially changed, in consequence

of a surgeon coming on board. The beds were at this time below. Now he would ask their Lordships, if an adulterous intercourse was sought for by her Royal Highness, would she not have continued the beds below, where intercourse of that description would be less open to observation? Instead of this, what took place? Her Royal Highness went on deck, where her actions were not only exposed to the observations of her attendants, but also to those of the whole of the ship's crew. The tent opened on the deck; and, besides, there was an opening from below, to which the suite had access. But it was said that her Royal Highness was attended in this tent by a male attendant. Good God! was that circumstance to be taken as proof of adulterous intercourse? What was to become of society if a woman having a male attendant was to be taken as a proof of her guilt? Was it not a matter of every day occurrence that women were attended in their rooms by men, and also men by women; but who ever inferred guilt from that circumstance? Taking, then, the whole of what occurred on board the polacre—and it seemed upon the tent-scene the whole case was rested—he contended that there was nothing in it which could support the statement of the preamble, that her Majesty's conduct in various countries was "scandalous, disgraceful, and vicious." If the whole of her conduct were taken together, it did not amount to a proof of the preamble; but all her Majesty's acts, whether of "private or public" character, had been abandoned by his noble and learned friend, except those which took place in the polacre.

[Lord Erskine was proceeding with comments on the evidence of Demont and Majocchi, when he suddenly paused. This was not particularly noticed at first, as it appeared as if his lordship were looking over the minutes placed on the table before him; but after some time had elapsed, without resuming his speech, some of the Peers became alarmed, and rose from their seats to

proceed to his Lordship. The anxiety of the whole House was then aroused, as the noble Earl fell forward on the table in a senseless state. There were cries of "Open the windows,"—"Some water." The Lord Chancellor and Lord Liverpool, with the assistance of Earls Grey and Carnarvon, and Lord Holland, raised his Lordship, but his speech and color were gone. They conveyed him into an adjoining room. The Lords then adjourned for a quarter of an hour.]

The House having resumed—

The Lord Chancellor could not permit this debate to go further without observing, that his noble and learned friend mistook what he (the Lord Chancellor) meant, when he said that he had overlooked many of the points in the case. What he meant to say was merely this—that in the points and cases upon which he had remarked, he saw enough for his own judgment: as to the rest, he had left them unreasoned upon, and refrained from pronouncing any opinion with reference to them.

NOVEMBER 10.

The Earl of Liverpool moved, that the Bill be read a third time.

On the division there appeared—

For the third reading.....	108
Against it.....	99
Majority.....	9

Lord Dacre then rose amid very vehement cries of "Order;" and as soon as the peers had taken their seats, he observed, that he had been intrusted with a petition from her Majesty, praying to be heard by counsel against the passing of the Bill.

The Earl of Liverpool rose immediately, and said that he apprehended such a course would be rendered unnecessary by what he was about to state. He could

not be ignorant of the state of public feeling with regard to this measure, and it appeared to be the opinion of the House that the Bill should not be read a third time only by a majority of nine votes. Had the third reading been carried by as considerable a number of peers as the second, he and his noble colleagues would have felt it their duty to persevere with the Bill, and to send it down to the other branch of the legislature. In the present state of the country, however, and with the division of sentiment, so nearly balanced, just evinced by their Lordships, they had come to the determination not to proceed further with it. It was his intention, accordingly, to move that the question that the Bill do pass be put on this day six months.

Lord Erskine expressed the delight he felt that, after all that had been threatened and performed, he had yet at length lived to see justice—tardy and reluctant justice—done to the Queen. It was the victory of right and innocence over wrong and malignity. He had spent much of his life in courts of justice, and he had often witnessed the triumph of the law, but never so gloriously as on the present occasion—the triumph of that law of which Hooker, in his *Ecclesiastical Polity*, said, "Of Law there can be no less acknowledged than that her seat is the bosom of God, her voice the harmony of the world. All things in heaven and on earth do her homage; the very least as feeling her care, and the greatest as not exempt from her power. Both angels and men, and creatures of whatever condition, though each in different sort and manner, yet all with uniform consent admiring her as the mother of their peace and joy."

The question was then put from the wool-sack, on the motion of the *Earl of Liverpool*, that the question "that this Bill do pass" be put on this day six months. It was carried *nemine contradicente*, and almost by acclamation.

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